

Report to: **Partnership Board –Transport for the South East**

Date of meeting: **26 September 2022**

By: **Cllr Tony Page**

Title of report: **Governance Sub-Group Update**

Purpose of report: **To provide an update on the Governance sub-group**

RECOMMENDATIONS:

The members of the Partnership Board are recommended to:

- 1) Note the discussions at the recent meeting of the Governance sub-group;**
- 2) Agree the proposed amendments to the constitution; and**
- 3) Note the support from the accountable body’s legal team.**

1. Overview

1.1 At the January 2022 Partnership Board meeting it was agreed that the governance sub-group should be reconvened, with the first meeting taking place in March 2022.

1.2 The Partnership Board subsequently agreed the Terms of Reference for the sub-group in March 2022. It was agreed that the group should have a focus on ensuring that the governance arrangements for Transport for the South East (TfSE) remain robust and appropriate to support the implementation of the Strategic Investment Plan (SIP).

1.3 Membership of the sub-group is as follows:

- Cllr Tony Page – Berkshire Local Transport Body
- Cllr Daniel Watkins – Kent County Council
- Cllr Amy Heley – Brighton and Hove City Council
- Daniel Ruiz – Enterprise M3 LEP
- Geoff French – Chair, Transport Forum

1.4 The governance sub-group met on 9 September 2022. This paper provides a progress report on the key issues discussed and sets out the proposed next steps.

2. TfSE Constitution

2.1 The Partnership Board agreed the TfSE constitution in December 2019. The constitution had been revised from an earlier iteration to reflect the imminent proposal to Government for statutory status and to demonstrate that the constitution was fit for purpose for a statutory body. It is considered to be timely to review the

constitution to ensure it reflects the current position of TfSE and the emerging strategic investment plan.

2.2 The sub-group presented a number of areas of the constitution that should be revised to the Partnership Board at the May 2022 meeting. This included the powers and responsibilities of the Board, the governance structures and the scheme of delegations. As recommended by the sub-group, it was agreed that the constitution should retain a focus on obtaining statutory status in the event that the Board decided to pursue this at a later stage.

2.3 Further to the Board meeting in May, work has been undertaken with the accountable body's legal team, who have supported a review of the constitution. Based on the advice of the legal team, it is proposed that TfSE adopt a revised constitution that reflects the partnership nature of the organisation. This reflects the fact that TfSE requires an accountable body to undertake a number of statutory functions, such as monitoring/legal, finance and head of staff. This draft constitution is attached as Appendix A.

2.4 The revised constitution contains the following key changes:

- Status – it clearly sets out that TfSE will operate as a partnership body, whilst recognizing the ambition to achieve statutory status at the appropriate time;
- Statutory officers – the previous Constitution sets out that TfSE, as a statutory body, would have its own Chief Officer, finance officer and monitoring officer. The revised draft recognises that the accountable body will take on those responsibilities whilst TfSE operates in partnership form;
- Scheme of delegations – the scheme of delegations have been updated to reflect the policies and procedures of the accountable body;
- Functions – the revised Constitution retains the general functions of an STB as set out in the Cities and Local Government Devolution Act 2016. However, it is clear that TfSE requires the formal consent of its constituent authorities if it were to submit a proposal for statutory status.
- Audit and Governance Committee – as agreed at the last meeting of the Partnership Board, TfSE will establish an Audit and Governance Committee. This reflects the increased financial responsibility that the partnership has as a result of the increased grant funding from Government. The Audit and Governance Committee will be established following the publication of the SIP. The revised Constitution sets out the proposals for this new committee.

2.5 In recognition that the Partnership Board are keen to demonstrate a longer-term commitment to exploring statutory status, a second draft constitution would be prepared to set out the requirements of TfSE as a statutory body. This would remain in draft, but would allow TfSE to progress quickly in the event that an application for statutory status was agreed at the appropriate time.

2.6 The member sub-group will consider a revised version of the intra-authority agreement (IAA) at its next meeting. This will consider the addition of a 'hold harmless' clause to the IAA and would subsequently be brought to the Partnership

Board for approval. The group will also consider the terms of reference for the Audit and Governance Committee, which would also be presented to the Board for approval.

3. Conclusions and Recommendations

3.1 The Partnership Board are recommended to note the progress of the sub-group and agree that the group continues with the review of the constitution.

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Constitution
As agreed by Transport for the South East on

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PART 1 INTRODUCTION AND ARTICLES

1. Definitions

1.1 In this Constitution:

“**TfSE**” means Transport for the South East;

“**The TfSE Area**” means the area consisting of all the areas of the Constituent Authorities;

“**The Constituent Authorities**” are the local transport authorities situated wholly or partly in the South East region of England, namely:

- Brighton and Hove City Council
- East Sussex County Council
- Hampshire County Council
- Isle of Wight Council
- Kent County Council
- Medway Council
- Portsmouth City Council
- Southampton City Council
- Surrey County Council
- West Sussex County Council
- &
- Bracknell Forest Council)
- Reading Borough Council)
- Slough Borough Council) Represented by the Berkshire Local
- West Berkshire Council) Transport Body Partnership
- Royal Borough of Windsor) (BLTB)
- and Maidenhead)
- Wokingham Borough Council)

“**The Financial Regulations**” means the Lead Authority’s Financial Procedure Rules and Financial Regulations in force at the relevant time.

“**The Inter-Authority Agreement**” means the agreement entered into by the Constituent Authorities to set out their roles and responsibilities in respect of operating TfSE dated 26 June 2017.

“**The Lead Authority**” means the relevant Constituent Authority appointed to carry out the day to day operations of TfSE including to host employees and to enter into contracts on behalf of TfSE.

“**The TfSE Board**” means a members board appointed in accordance with paragraph 3.

“**Transport Strategy**” means a transport strategy within the meaning of Section 102I of the Local Transport Act 2008 and includes all investment and delivery plans.

1.2 This Constitution sets out how TfSE operates, how decisions are made and the procedures that are followed to ensure that TfSE operates efficiently, effectively and is both transparent and accountable.

2. Status of TfSE

2.1 TfSE is established by the Constituent Authorities to carry out the functions of a Sub-National Transport Body in partnership with the Department for Transport.

2.2 The Constituent Authorities are committed to securing statutory status as a Sub-National Transport Body for TfSE in accordance with of Section 102E of the Local Transport Act 2008.

2.3 The Constituent Authorities have agreed to act through a 'Lead Authority' until such time as TfSE is granted statutory status.

3. Members of TfSE

3.1 Each Constituent Authority, with the exception of those set out in paragraph 3.2, will appoint one person as a member of TfSE. The person appointed shall be that organisations' elected mayor, chair, leader, or relevant committee or cabinet member with responsibility for transport. The voting rights of each Constituent Authority are set out in Part 5 of this Constitution.

3.2 Bracknell Forest Council, Reading Borough Council, Slough Borough Council, West Berkshire Council, the Royal Borough of Windsor and Maidenhead and Wokingham Borough Council, who are each Constituent Authorities will, through their Joint Committee Berkshire Local Transport Body (BLTB), appoint one person as a member of TfSE, and shall therefore be entitled to one vote between them. The person appointed shall be an elected mayor, chair, leader, committee or cabinet member from one of the six (6) Constituent Authorities identified in this paragraph 3.2.

3.3 The Constituent Authorities will appoint another of their Councillors as a substitute to act as a member of TfSE in the absence of the person appointed. Such appointments will reflect the levels of representation set out in paragraphs 3.1 and 3.2 above.

3.4 All Members will:

- (a) collectively be the ultimate policy makers of TfSE;
- (b) bring the views of their communities into TfSE's decision making process;
- (c) maintain the highest standards of conduct and ethics;
- (d) in carrying out the business of TfSE, observe the Code of Conduct for Members adopted by their appointing Constituent Authority.

3.5 A member of TfSE shall not be considered to have an interest in any matter of business of TfSE by virtue of being a Member of a Constituent Authority.

3.6 Unless otherwise stated, references to Members will include Co-opted Members appointed in accordance with paragraph 9 of this Constitution.

4. Chairing TfSE

4.1 The Constituent Authority's shall appoint a Chair of TfSE and any Vice Chair from among the Members and Co-opted members of TfSE.

4.2 The process for the appointment of the Chair and any Vice-Chair is set out in the TfSE Procedure Rules in Part 5 of this Constitution.

4.3 In the absence of the Chair, the Vice-Chair will Chair any meeting of TfSE convened in accordance with this Constitution.

5. Meetings and Procedure

5.1 TfSE will meet at least four (4) times per year but additional meetings may take place should the Chair consider that the need has arisen.

5.2 There are three types of meeting of TfSE:

- (a) The Annual Meeting;
- (b) Ordinary meetings; and
- (c) Extraordinary meetings.

5.3 Meetings of TfSE will be conducted in accordance with the Procedure Rules set out in Part 5 of this Constitution.

5.4 All Members will be entitled to attend meetings of TfSE, and if they are unable to attend, their nominated Substitute Member may attend in their place.

5.5 Attendance at the Annual meeting shall be in person. Attendance at other meetings will ordinarily be in person but, with the Chair's prior agreement, attendance may be virtual.

5.6 A representative of the Secretary of State shall be entitled to attend meetings of TfSE in the role of an observer. They will be entitled to speak when invited to do so but shall have no vote.

6. Executive Arrangements

6.1 TfSE will not operate formal statutory executive arrangements.

6.2 The Lead Authority has delegated authority for the discharge of TfSE's functions which are not reserved to TfSE, in accordance with the scheme of delegation contained in Part 3 of this Constitution.

6.3 Save as otherwise set out in this Constitution, TfSE adopts the Lead Authority's corporate policies and procedures, together with the Financial Regulations, Procurement and Contract Standing Orders and Code of Corporate Governance of the Lead Authority.

7. Financial Contributions

- 7.1 TfSE is currently funded primarily by grant from the Department for Transport. Future funding decisions will remain the responsibility of the Government at the time.
- 7.2 The Constituent Authorities have agreed to make financial contributions to the running of TfSE as set out in the Inter-Authority Agreement.

8. Committees of TfSE

- 8.1 The Constituent Authorities will establish a TfSE Audit and Governance Committee to discharge the roles and functions set out in Part 4 of this Constitution.
- 8.2 The Constituent Authorities may establish such other TfSE committees as they consider fit to discharge the functions of a Sub-National Transport Body.

9. Co-opted Members

- 9.1 The Constituent Authorities may appoint any person not being an elected Member of one of the Constituent Authorities as a non-voting Co-opted Member of TfSE. No person may be appointed as a Co-opted Member unless all the voting Members of TfSE agree to do so.
- 9.2 The Constituent Authorities may by unanimous agreement allocate a vote to Co-opted Members both generally and in relation to specified matters.
- 9.3 A person co-opted to be a Member of TfSE as the representative of an organisation invited to appoint a representative to TfSE shall cease to be a Co-opted Member of TfSE if they cease to be a member of the organisation they represent.
- 9.4 The provisions relating to Co-opted Members are set out fully in Part 5 Procedure Rules.

10. Officers

- 10.1 Until such time as TfSE is granted statutory status, officers of the Lead Authority shall carry out the day-to-day operations of TfSE.
- 10.2 In the event that TfSE becomes a statutory body, TfSE shall appoint a Lead Officer, a Chief Finance Officer and a Monitoring Officer. However, until such time, the Director of Communities, Economy and Transport (or equivalent) of the Lead Authority shall act as the Lead Officer of TfSE.
- 10.3 Legal and Finance support shall be provided by the Lead Authority but shall be funded from the TfSE budget.
- 10.4 The Lead Authority may engage such staff (referred to as 'officers') on behalf of

TfSE as it considers necessary to carry out the functions of TfSE within the budget set by TfSE.

10.5 Officers of TfSE will comply with the Lead Authority's Code of Conduct for Officers.

11. Decision Making

11.1 Responsibility for decision making

11.1.1 The Constituent Authorities will issue and keep up to date a record of what part of TfSE or which individual has responsibility for particular types of decisions or decisions relating to particular functions. This record is set out in Part 3 of this Constitution.

11.2 Principles of decision making

11.2.1 All decisions of TfSE shall be made 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, equality and diversity;
- (d) Presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Due consideration to be given to alternative options;
- (g) Due consideration to be given to constitutional requirements / adherence to applicable statutory and / or legal frameworks.

11.3 Types of decision

11.3.1 Decisions reserved to TfSE

11.3.1.1 Decisions relating to the functions listed in paragraph 16 of this Constitution will be made by TfSE and not delegated. Meetings of TfSE will follow the Rules of Procedure set out in Part 5 of this Constitution when considering any reserved matter.

11.3.2 Decision making by Committees and Joint Committees established by the Constituent Authorities of TfSE

11.3.2.1 Committees and Joint Committees established by TfSE will follow those parts of the Rules of Procedure set out in Part 5 of this Constitution as apply to them.

11.3.3 Decision making by Officers

11.3.3.1 Officers will exercise their delegated authority in accordance with the Scheme of Delegation to Officers set out in Part 3 of this Constitution and other provisions of this Constitution and shall keep appropriate records of the decisions that they have made.

12. Finance, Contracts and Legal Matters

12.1 Financial Management

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

12.2 Legal proceedings

12.2.1 Until such time as it is granted statutory status, TfSE cannot institute, defend or participate in any legal proceedings in its own right. The Monitoring Officer of the Lead Authority shall be empowered to institute, defend or participate in legal proceedings in the name of the Lead Authority but on behalf of TfSE in any case where the Lead Authority's Monitoring Officer considers that such action is necessary to protect the interests of TfSE.

12.2.2 Any notices to be served on TfSE are to be sent to the Monitoring Officer of the Lead Authority at ESCC, County Hall, St Annes Crescent, Lewes, East Sussex BN7 1UE, which for the purposes of any enactment shall be regarded as the principal office of TfSE.

12.3 Entering into Contracts

12.3.1 The Lead Authority shall be empowered to enter into contracts on behalf of TfSE.

12.4 Authentication of documents

12.4.1 Where any document is necessary to any legal procedure or proceedings by the Lead Authority on behalf of TfSE, it will be signed by Authorised Signatories of the Lead Authority or some other person duly authorised by the Monitoring Officer in accordance with the Lead Authority's constitution, unless any enactment otherwise authorises or requires.

12.4.2 Contracts entered into by the Lead Authority on behalf of TfSE shall be executed in accordance with the Lead Authority's Procurement and Contract Standing Orders.

13. Review and Revision of this Constitution

- 13.1 The Lead Officer will monitor and review the operation of the Constitution as required, in consultation with the Monitoring Officer of the Lead Authority.
- 13.2 Changes to this Constitution must be approved by TfSE in accordance with the Rules of Procedure set out in Part 5 of this Constitution.

PART 2 FUNCTIONS OF TfSE

14. Role and Powers of TfSE

- 14.1 TfSE has been established to provide a single voice for the South East, to facilitate the development and implementation of transport strategies in the South East and with the objective that economic growth, as well as environmental and social issues, in the area would be enhanced by the development and implementation of these strategies.
- 14.2 TfSE shall take all steps necessary to secure statutory status as a Sub-National Transport Body. TfSE shall carry out full consultation with the Constituent Authority's prior to submitting a proposal for statutory status and the unanimous approval of the Constituent Authorities is required before the proposal is submitted.
- 14.3 As set out in the Cities and Local Government Devolution Act 2016, the Secretary of State must have regard to proposals contained in the transport strategy of an STB that appear to the Secretary of State to further the objective of economic growth in the area. The Secretary of State has indicated that they will have regard to TfSE's Transport Strategy as if TfSE had statutory status.

14.4 General Functions

- 14.4.1 To prepare a Transport Strategy for the TfSE Area in accordance with section 102I of the Local Transport Act 2008;
- 14.4.2 To provide advice to the Secretary of State about the exercise of the transport functions in the TfSE Area;
- 14.4.3 To co-ordinate the carrying out of transport functions that are exercisable by its different Constituent Authorities with a view to improving the effectiveness and efficiency of the carrying out of those functions;
- 14.4.4 To prepare a Strategic Investment Plan for the TfSE Area;
- 14.4.5 If TfSE considers that a transport function in relation to its area would more effectively and efficiently be carried out by TfSE, to make proposals to the Secretary of State for the transfer of that function to TfSE; and
- 14.4.6 To make other proposals to the Secretary of State about the role and functions of TfSE.

14.5 Other Powers

- 14.5.1 TfSE will act as a partner to the Secretary of State in both road and rail investment processes and will be responsible for setting the objectives and priorities for strategic road and rail investment in the TfSE Area.

14.5.2 TfSE will exercise any powers and duties in accordance with the law and this Constitution.

14.5.3 If further powers and responsibilities are required in order to deliver the Transport Strategy and Strategic Investment Plan TfSE shall, at the appropriate time, make proposals to the Secretary of State as required.

14.6 Limits on Powers of TfSE

14.6.1 Until such time as TfSE is granted statutory status, TfSE shall have no specific statutory powers and duties and relies on the powers generally available to the Constituent Authorities as local authorities.

15. Protocol on the Exercise of TfSE's Functions

15.1 TfSE will consult with the Senior Officer Group (which will be a group of officers with each Constituent Authority or co-opted member entitled to appoint one officer as a member) over the Governance Arrangements to be put in place for each major programme of work. A major programme of work shall be one for which TfSE employs an identified Director or Lead Officer. The governance arrangements will ensure that the Constituent Authorities, other Authorities and stakeholders are involved in the formulation of plans and future proposals and given appropriate opportunities to express their views and for these to be taken into account.

15.2 The Governance Arrangements for each approved programme will include an Officers Working Group to be made up of appropriately qualified officers of each of the Constituent Authorities or where appropriate Highway and other Authorities. The Terms of Reference and Membership of each Officers Working Group will be set out in the Governance Arrangements for each programme and will provide the officers of the Constituent Authorities and other Authorities with an opportunity to work closely with TfSE officers and the delivery agencies in the development of plans and proposals.

PART 3 RESPONSIBILITY FOR FUNCTIONS

16. Functions Reserved to TfSE

16.1 TfSE will not delegate the following functions:

- (a) Adopting and changing the Constitution;
- (b) The adoption, approval, amendment, modification, revision, variation, withdrawal or revocation of a Transport Strategy under section 102H of the Local Transport Act 2008;
- (c) The approval of the business plan and budget;
- (d) The approval of payments to officers in excess of £150,000; or
- (e) The award of contracts in excess of the threshold for goods and services set out in the Public Contracts Regulations 2015.

17. Scheme of Delegations to Officers

17.1 Introduction

17.1.1 The delegated powers set out in this Scheme may be exercised by other officers authorised by the Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and monitor decisions taken.

17.1.2 The exercise of delegated powers by officers is required to be in accordance with:

- (a) Statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice;
- (b) This Constitution and the Financial Regulations currently in force;
- (c) The revenue and capital budgets of TfSE, subject to any variation thereof which is permitted by the Financial Regulations; and
- (d) Any policy or direction of TfSE or any TfSE Committee exercising delegated powers.

17.1.3 Officers may not exercise delegated powers where:

17.1.3.1 The matter is reserved to TfSE by law or by this Constitution;

17.1.3.2 The matter is a function which cannot by law be discharged by an officer; or

17.1.3.3 TfSE, a TfSE Committee or Joint Committee to which TfSE is a party, has determined that the matter should be discharged otherwise than by an officer;

17.1.3.4 The Lead Officer has directed that the officer concerned should not exercise a delegated function in special circumstances.

17.1.4 Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment or re-enactment of the same.

17.1.5 Where, in relation to an item before TfSE or a TfSE Committee, an Officer is given specific authority to determine a particular matter, the Officer shall ensure that there is an appropriate audit trail to evidence such determination.

17.2 Delegations to the Lead Officer

17.2.1 To establish and determine, in accordance with the policies and procedures of the employing authority, the grading of posts (within approved budgets).

17.2.2 To discharge any function which is neither the statutory responsibility of nor been specifically delegated to another officer, Committee or reserved to TfSE under Part 3 of this Constitution.

17.2.3 To direct any officer not to exercise a delegated function in special circumstances unless they are required to do so by law.

17.2.4 To take any action which is required as a matter of urgency in the interests of TfSE, in consultation (where practicable) with the Chair of TfSE. Where action is taken as a matter of urgency a report shall be submitted to the next meeting of TfSE.

17.2.5 To take preliminary steps to protect the rights and interests of TfSE subject to consultation with the Chair of TfSE in relation to any Bill or Statutory Instrument or Order in Parliament.

17.2.6 To conduct before either House of Parliament any proceedings (including the retention of Parliamentary Agents and Counsel) connected with the passage of any Private Bill which TfSE has resolved to promote or oppose, including the negotiation and agreement of amendments to any such Bill, and the negotiation and approval of any terms, agreement or undertaking offered in consideration of TfSE not opposing any Private Bill.

17.2.7 To nominate, appoint and remove, in consultation with the Chair or Vice-Chair of TfSE, TfSE representatives on the board of companies, trusts and other bodies, of which TfSE is a member, and to agree constitutional arrangements for such companies, trusts and other bodies and give any necessary consent required within relevant constitutions.

17.2.8 To nominate an officer to act as the 'Responsible Officer for TfSE projects who will act as the main point of contact for the Department for Transport.

17.2.9 To provide a comprehensive policy advice service to TfSE and in particular to advise on TfSE's plans and strategies.

17.2.10 To control and co-ordinate press and media relations, the organisation of

press conferences, publicity and public relations within prescribed policy including approval of the issue of all official TfSE publicity and official publications.

- 17.2.11 To authorise the attendance of officers at professional conferences or seminars which are appropriate to the work of TfSE and within any policy framework from time to time laid down by TfSE.
- 17.2.12 To provide a comprehensive administrative service to TfSE.
- 17.2.13 To be the Proper Officer for ensuring the maintenance of public access to information in relation to TfSE documents, reports and background papers.
- 17.2.14 To approve the award of contracts on behalf of TfSE up to the value of £100,000, in accordance with the PCSOs of the Lead Authority.
- 17.2.15 To approve, in consultation with the Chair, the award of contracts on behalf of TfSE up to the threshold for goods and services set out in the Public Contracts Regulations 2015, in accordance with the PCSOs of the Lead Authority.
- 17.2.16 To supervise procedures for the invitation, receipt and acceptance of tenders.

17.3 Delegations to the Lead Authority

The Chief Finance Officer (s.151 officer) and the Monitoring Officer shall carry out those roles in respect of TfSE.

The following functions are delegated to appropriate Officers of the Lead Authority:

- 17.3.1 To effect the proper administration of TfSE's financial affairs particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.
- 17.3.2 To take all actions requiring investment and financing, subject to the submission to TfSE of an annual report on treasury management activities and at six monthly intervals in accordance with CIPFA's Code of Practice for Treasury Management and Prudential Codes.
- 17.3.3 To affect all insurance cover required in connection with the business of TfSE and to settle all claims under such insurances arranged for TfSE's benefit.
- 17.3.4 To prepare manuals of financial and accounting procedures to be followed by Officers of TfSE as are deemed necessary by the Lead Authority's Chief Finance Officer.
- 17.3.5 To bid for and accept grant offers on behalf of TfSE, subject to all the terms and conditions set out by the grant awarding body.

- 17.3.6 To submit all claims for grant funding.
- 17.3.7 To make all necessary banking arrangements on behalf of TfSE, to include authorisation of all forms of payment.
- 17.3.8 To monitor revenue and capital spending and submit a report to TfSE at not more than quarterly intervals. This report will separately identify the capital expenditure relating to schemes promoted by TfSE.
- 17.3.9 In relation to revenue expenditure under the control of officers, to consider reports of officers on any likely overspending, and to approve transfers between expenditure heads up to a maximum of £500,000, provided that, where it is not possible to finance an overspend by such a transfer, the matter shall be referred to TfSE for consideration of a supplementary estimate.
- 17.3.10 To collect all money due to TfSE, and to approve the writing-off of bad debts.
- 17.3.11 To make all necessary arrangements to ensure the payment of staff employed by TfSE.
- 17.3.12 To exercise the functions of the authority in relation to pensions and (without prejudice to the generality of this) to be the person specified to determine disputes in the first instance arising from the decisions of the Authority as scheme employer under the Local Government Pension Regulations.
- 17.3.13 To sign certificates under the Local Government (Contracts) Act 1997.
- 17.3.14 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 there under.
- 17.3.15 To exercise the responsibilities assigned to the Chief Finance Officer in the Financial Regulations and the Contract Procurement Rules.

17.4 Delegations to the Lead Authority's Monitoring Officer

The functions to be carried out by the Lead Authority's Monitoring Officer are as follows:

- 17.4.1 Should at any time it appear to the Monitoring Officer that any proposal, decision or omission by TfSE has given rise to, or is likely to give rise to, unlawfulness or maladministration, to prepare a report to TfSE with respect to that proposal, decision or omission.
- 17.4.2 To contribute to the promotion and maintenance of high standards of conduct. TfSE has delegated to the Monitoring Officer of the Lead Authority the following powers to deal with matters of conduct and ethical standards in accordance with the requirements of the Localism Act 2011:

- (a) To act as TfSE's Proper Officer to receive complaints that Members of TfSE have failed to comply with their appointing Authority's Code of Conduct for Members;
 - (b) To refer such complaints to the Monitoring Officer of the elected Member's appointing Authority;
 - (c) To maintain the Register of Member's interests in accordance with section 29 of the Localism Act 2011 and to ensure that it is available for inspection and published on TfSE's website.
 - (d) To receive complaints from the Monitoring Officer of a Constituent Authority concerning the administration of TfSE's affairs.
- 17.4.3 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all members of TfSE.
- 17.4.4 To institute, conduct, prosecute and defend any legal proceedings in the name of the Lead Authority but on behalf of TfSE, as may be necessary to protect and promote TfSE's interests in accordance with any general policy laid down by TfSE, subject to consultation with the Chair in any case where the matter is of significance to TfSE's reputation or where the Lead Authority proposes to appeal to the Court of Appeal or the Supreme Court on TfSE's behalf.
- 17.4.5 To settle, if appropriate, and in the interests of TfSE, any actual or threatened legal proceedings.
- 17.4.6 To instruct Counsel and professional advisers, where appropriate.
- 17.4.7 To supervise the preparation and sealing or signature of legal documents.
- 17.4.8 To authorise other officers to seal documents or to sign documents which are not required to be under seal. To complete all property transactions and contractual arrangements where terms have been agreed by TfSE.
- 17.4.9 To determine exemptions under Section 36 of the Freedom of Information Act 2000.
- 17.4.10 To accept on behalf of TfSE the service of notices, orders and legal procedures.

PART 4 COMMITTEES

18. Audit and Governance Committee

18.1 Statement of Purpose

The Audit and Governance Committee is a key component of corporate governance providing an independent, high-level focus on the audit, assurance and reporting framework underpinning financial management and governance arrangements for TfSE. Its purpose is to provide independent review and assurance to Members on governance, risk management and control frameworks. It oversees financial reporting and internal and external audit, to ensure efficient and effective assurance arrangements are in place and assists the TfSE Board in providing leadership, direction and oversight of the overall risk appetite and risk management strategy.

18.2 Membership

18.2.1 Membership of the Audit and Governance Committee comprises five members (drawn from the members appointed by the Constituent Authorities in accordance with paragraph 3 of this Constitution).

18.2.2 The members of the Audit and Governance Committee shall appoint from among them a Chair of the Committee.

18.2.3 A representative of the Department for Transport (DfT) will be invited to attend meetings of the Audit and Governance Committee.

18.2.4 An independent member may be invited to join the Audit and Governance Committee where the Chief Officer and the Chair of the Committee agree that specialist skills are required

18.3 Terms of Reference

The core functions of the Audit and Governance Committee are to:

18.3.1 approve TfSE's Accounts;

18.3.2 recommend approval of the annual statement of accounts for TfSE;

18.3.3 governance, risk and control;

18.3.4 review corporate governance arrangements against the Code of Corporate Governance and the good governance framework;

18.3.5 monitor the effectiveness of arrangements to secure value for money;

18.3.6 be satisfied that the assurance framework adequately addresses risks and priorities including governance arrangements in significant partnerships;

18.3.7 Monitor TfSE's risk and performance management arrangements including

review of the risk register, progress with mitigating action and the assurance map;

18.3.8 Consider reports on the effectiveness of internal controls;

18.3.9 Monitor the anti-fraud strategy, risk-assessment and any actions;

18.3.10 Make recommendations to the Chief Finance Officer and Monitoring Officer in respect of Part 6 of the Constitution (Financial Regulations).

18.4 Frequency and Quorum

18.4.1 The Audit and Governance Committee shall be comprised of five (5) members and the quorum shall be three (3), of whom at least two (2) shall be representatives of the Constituent Authorities.

18.4.2 The Audit and Governance Committee shall meet quarterly or at such intervals as the Chair of the Committee may decide.

18.5 Accountability Arrangements

The Audit and Governance Committee shall report to its findings, conclusions and recommendations on the effectiveness of governance, risk management and internal controls to TfSE on an annual basis.

18.6 Miscellaneous

18.6.1 The Audit and Governance Committee may invite any individual, whether internal or external, to attend all or part of its meetings in whatever capacity as the Chair deems appropriate in order to assist the Audit and Governance Committee in its duties.

18.6.2 The Audit and Governance Committee will meet privately with the external auditor at least once a year, without the presence of TfSE Officers.

PART 5 PROCEDURE RULES

19. Suspension and Revocation of TfSE Procedure Rules

- 19.1 ******With the exception of the Rules marked by a double asterisk (******) any Rule may be suspended at a meeting of TfSE 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 ten (10) Members of TfSE are present.
- 19.2 These Rules may be changed by TfSE either at the Annual Meeting or by a motion on notice made at an Ordinary or Extraordinary meeting of TfSE.
- 19.3 Changes may only be made to these Rules and / or this Constitution if the motion is passed by a Super Majority in a weighted vote (see paragraph 23.14 (Voting)).

20. Interpretation, Suspension and Chair's Ruling

- 20.1 These Rules apply to meetings of TfSE and, where appropriate, to meetings of the Audit and Governance Committee and any other Committees or Sub Committees of TfSE established from time to time.
- 20.2 References in these Rules to the "Chair" mean the Member of TfSE for the time being presiding at the meeting of TfSE and a meeting of a Committee or Sub Committee of TfSE.
- 20.3 These Rules should be read in conjunction with other parts of this Constitution.
- 20.4 ******These Rules are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 20.5 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.

21. Membership of TfSE

- 21.1 Each Constituent Authority shall appoint one of its elected members to be a Member of TfSE. The person appointed shall be in the case of a Constituent Authority with an elected Mayor, the Mayor or the elected Member with responsibility for transport or in any other case, the Leader, the Chair or the elected Member with responsibility for transport.
- 21.2 ******Each Constituent Authority shall appoint another of its elected members to act as a Member of TfSE in the absence of the Member appointed under sub-paragraph 23.3.1 above ("the Substitute Member").
- 21.3 ******A person shall cease to be a Member or a Substitute Member of TfSE if they cease to be a member of the Constituent Authority that appointed them.

- 21.4 **A person may resign as a Member or Substitute Member of TfSE by written notice served on the proper officer of the Constituent Authority that appointed them (who for the purposes of this paragraph 21.4 shall be the Monitoring Officer of the Constituent Authority that appointed them) and the resignation shall take effect on receipt of the notice by the proper officer.
- 21.5 **Where a Member or Substitute Member of TfSE's appointment ceases by virtue of paragraphs 21.3 or 21.4, the Constituent Authority that made the appointment must, as soon as practicable, give written notice of that fact to the Lead Officer and appoint another of its elected members in that person's place.
- 21.6 **A Constituent Authority may at any time terminate the appointment of a Member or Substitute Member appointed by it to TfSE and appoint another of its elected members in that person's place.
- 21.7 **Where a Constituent Authority exercises its power under paragraph 21.6 it must give written notice of the new appointment and the termination of the previous appointment to the Lead Officer 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 (1) month as is specified in the notice).
- 21.8 **For the purposes of this paragraph 21, an elected mayor of a Constituent Authority shall be treated as a member of the Constituent Authority.
- 21.9 A person shall cease to be a Co-opted Member or a Substitute Co-opted Member of TfSE if they cease to be a member of the Authority that appointed them.
- 21.10 A person may resign as a Co-opted Member or Substitute Co-opted Member of TfSE by written notice served on the proper officer of the Constituent Authority that appointed them (who for the purposes of this paragraph 21.10 shall be the Monitoring Officer of the Constituent Authority that appointed them) and the resignation shall take effect on receipt of the notice by the proper officer.
- 21.11 **Where a Co-opted Member or Substitute Co-opted Member's appointment ceases by virtue of sub-paragraph 21.9 or 21.10, the Authority that made the appointment must, as soon as practicable, give written notice of that fact to the Monitoring Officer and appoint another of its elected members in that person's place.
- 21.12 **An Authority may at any time terminate the appointment of a Co-opted Member or Substitute Co-opted Member appointed by it to TfSE and appoint another of its elected members in that person's place.
- 21.13 Where an Authority exercises its power under sub- paragraph 23.3.12, it must give written notice of the new appointment and the termination of the previous appointment to the Monitoring Officer 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 as is specified in the notice).
- 21.14 The Members of TfSE appointed by the Constituent Authorities may appoint

further Co-opted Members if they all agree to do so.

21.15 TfSE may at any time terminate the appointment of a Co-opted Member who was not appointed by a Constituent Authority but such termination must be agreed by every Member appointed by a Constituent Authority.

22. Chair

22.1 ** At its Annual General Meeting TfSE shall appoint one (1) of its Members or Co-opted Members as its Chair for the forthcoming year.

22.2 **The appointment of the Chair shall be for a fixed term of one (1) year until the next Annual Meeting unless the Chair resigns or the appointment is terminated by TfSE.

22.3 **The Chair may resign by written notice served on the Lead Officer of TfSE and the resignation shall take effect on receipt of the notice by the Lead Officer.

22.4 **TfSE may terminate the appointment of the Chair where one has been appointed (under paragraph 22.1).

22.5 **Where a person ceases to be Chair by virtue of paragraph 21.3 or 21.4, TfSE shall appoint a further Chair in accordance with this paragraph 22.

23. Vice-Chairs

23.1 ** One or more Vice-Chairs may be appointed annually by TfSE from among its Members or Co-opted Members and will, unless they resign, cease to be members of TfSE or become disqualified, act until their successor become entitled to act.

23.2 The appointment of the Chair and Vice-Chairs shall be the first business transacted at the Annual Meeting of TfSE.

23.3 **On a vacancy arising in the office of Chair or Vice-Chair for whatever reason, TfSE shall make an appointment to fill the vacancy at the next Ordinary Meeting of TfSE held after the date on which the vacancy occurs, or, if that meeting is held within fourteen (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.

23.4 **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, any of the Vice-Chairs.

24. Meetings

24.1 **The Annual Meeting of TfSE shall be held in June on a date and at a time determined by TfSE.

24.2 **Ordinary Meetings of TfSE for the transaction of general business shall be held on such dates and at such times as TfSE shall determine.

24.3 **An Extraordinary Meeting of TfSE may be called at any time by the Chair.

25. Admission of the Public

25.1 **All meetings of TfSE, 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:

25.1.1 in accordance with Section 100A(2) of the Local Government Act 1972; or

25.1.2 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 100I 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.

26. Notice of Meetings

26.1 **At least five (5) clear days before a meeting of TfSE:

26.1.1 Notice of the time and place of the intended meeting shall be published by the Lead Officer and posted on the TfSE website;

26.1.2 A summons to attend the meeting, specifying an agenda for the meeting, shall be left at or sent by post or electronic mail to all Members of TfSE at the principal office of the Constituent Authority which appointed the Member.

26.2 **Lack of service on a Member of TfSE of the summons shall not affect the validity of a meeting of TfSE.

27. Meeting Agendas

27.1 **Any Member of TfSE may require the Lead Officer to make sure that an item is placed on the agenda of the next available meeting of TfSE for consideration.

27.2 **Any item proposed to be included on the agenda for any meeting of TfSE in accordance with sub-paragraph 27.1 above, which is not submitted at least five (5) days ahead 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.

27.3 The Lead Officer shall set out in the agenda for each meeting of TfSE 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 Lead Officer 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 TfSE decides otherwise, be treated as withdrawn.

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

28. Chair of Meeting

- 28.1 **At each meeting of TfSE, the Chair, if present, shall preside.
- 28.2 **If the Chair is absent and more than one Vice-Chair is present at the meeting, they shall agree between themselves who is to chair the meeting and in default of agreement the Lead Officer shall invite the members present to elect a Vice-Chair to preside for the duration of the meeting.
- 28.3 **If the Chair and all the Vice-Chairs of TfSE are absent from a meeting of TfSE, the Lead Officer 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.
- 28.4 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.

29. Quorum

- 29.1 No business shall be transacted at any meeting of TfSE unless at least eight (8) of the Members are present and those Members together hold more than fifty percent (50%) of the weighted voting rights.
- 29.2 If at the time for which a meeting is called, and for thirty (30) minutes thereafter, a quorum is not present, then no meeting shall take place.
- 29.3 If during any meeting of TfSE the Chair, after counting the number of Members present and their weighted voting rights, 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 TfSE.

30. Order of Business

- 30.1 At every meeting of TfSE, 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 their discretion; or

- (b) on a request agreed to by TfSE. the Chair may bring before TfSE at their discretion any matter that they consider appropriate to bring before TfSE as a matter of urgency.

31. Committees

- 31.1 TfSE appoints the Audit and Governance Committee. The terms of reference of this Committee are set out in Part 4 of this Constitution.
- 31.2 If TfSE secures statutory status it shall establish a Scrutiny Committee and update this Constitution accordingly.
- 31.3 TfSE may appoint such other Committees as it considers necessary for the effective governance and administration of TfSE.

32. Rules of Debate

- 32.1 The Chair shall propose each motion.
- 32.2 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.
- 32.3 The conduct of the meeting shall be the responsibility of the Chair who shall ensure that every Member wishing to speak has an opportunity to do so.
- 32.4 A Member shall not speak for longer than five (5) minutes on any matter without the consent of the Chair.
- 32.5 If the Chair is of the opinion that the matter before TfSE has been sufficiently discussed the Chair may put the Motion that the question now be put.
- 32.6 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.
- 32.7 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 TfSE 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.

33. Voting

- 33.1 **There shall be a presumption that decisions are normally taken by consensus. In the absence of consensus decisions will be taken on the basis of a weighted vote. The number of votes to be cast by a Member appointed by a Constituent Authority shall be determined in accordance with the arrangements set out in Annex B .
- 33.2 **The following decisions shall require a Super Majority:

33.2.1 the approval or revision of the Transport Strategy;

33.2.2 the approval of the Annual Budget;

33.2.3 the adoption of and any changes to this Constitution.

33.3 **A "Super Majority" shall consist of:

- (a) the Members who together hold at least seventy five percent (75%) of the weighted vote; and
- (b) a simple majority of the Members appointed by the Constituent Authorities present and voting.

33.4 Each Member shall cast a number of votes equal to the combined weighted votes of the Constituent Authorities they represent and a Substitute Member shall have the same voting rights as the Member they are replacing.

33.5 In the event of a tied vote at a meeting of TfSE, the Chair will have a casting vote.

33.6 At any meeting of TfSE or any of its Committees or sub-Committees, if immediately after a vote is taken any Member so requires there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his vote for the question or against the question or whether they abstained from voting.

33.7 Voting at the Audit and Governance Committee shall be on the basis of one member one vote.

34. Conduct of Members

34.1 If the Chair is of the opinion that at a meeting any Member of TfSE, 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 TfSE, the Chair may notify the meeting of that opinion and may take any of the following actions either separately or in sequence:

34.1.1 the Chair may direct the Member to refrain from speaking during all or part of the remainder of the meeting of TfSE;

34.1.2 the Chair may direct the Member to withdraw from all or part of the remainder of the meeting of TfSE;

34.1.3 the Chair may order the Member to be removed from the meeting of TfSE; and

34.1.4 the Chair may adjourn the meeting of TfSE for such period as they consider

expedient.

34.2 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 TfSE for such period as the Chair considers expedient.

34.3 If a member of the public interrupts the proceedings at any meeting of TfSE, the Chair shall warn him or her. If they continue the interruption the Chair shall order the member of the public to leave 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.

35. Notification and Declaration of Interests

35.1 In this Rule 35:

- (a) **“The Code”** means the Code of Conduct for Members adopted by the elected Member’s appointing Authority under Section 28 of the Localism Act 2011;
- (b) **“Member of TfSE”** includes a Substitute Member when acting as a Member of TfSE and Co-opted Members.

35.2 Members of TfSE must within twenty eight (28) days of their appointment to office notify the Lead Officer in writing of the details of their disclosable pecuniary interests arising in respect of the TfSE area (including, where required, interests of their partner) and their personal interests.

35.3 Where a Member of TfSE is present at a meeting and has a disclosable pecuniary interest or, an interest that would be a personal interest under the provisions of the Code in any matter to be considered at the meeting, they must disclose the interest to the meeting.

35.4 Where a member of TfSE has a disclosable pecuniary interest or an interest that under the provisions of the Code would be a prejudicial interest in any matter being considered at a meeting, they must not participate or vote on the matter and must withdraw from the room of the meeting while the matter is being considered.

36. Records

36.1 The Lead Officer shall ensure that the names of the Members of TfSE present at any meeting of TfSE, any Substitute Member acting in a Member’s place, and any Co-opted Member shall be recorded in the Minutes of the meeting concerned.

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

36.3 The Minutes of the proceedings of a meeting of TfSE shall be signed at the next meeting of TfSE by the person presiding at the meeting of TfSE to which the

Minutes relate.

36.4 Any minute purporting to be signed as mentioned in paragraph 36.3 shall be received in evidence for the purposes of any legal proceedings without further proof.

36.5 Until the contrary is proved, a meeting of TfSE, a Minute of whose proceedings has been signed in accordance with this paragraph 36.5 is deemed to have been duly convened and held, and all the Members of TfSE present at the meeting, and any Substitute Member acting in a Member's place, are deemed to have been duly qualified.

37. Publication of Report

37.1 **Reports or other documents for the consideration of TfSE or a Committee of TfSE shall be marked "Private & Confidential Not for Publication" only if the Monitoring Officer of the Lead Authority determines that this should be done on one or more of the grounds specified in the Act.

37.2 **Copies of the Agenda of meetings of TfSE, its Committees and Sub Committees, including prints of reports or other documents to be submitted to TfSE its Committees and Sub Committees (other than reports or other documents marked "Not for Publication") shall be furnished prior to the meeting to representatives of the press, radio and television and shall also be furnished at the meeting to members of the public attending such meetings. Such documents shall also be made available for public inspection, at least five (5) clear days before any meeting of TfSE, its Committees and Sub Committees at the Principal place of business of each of the Constituent Authorities. Copies of all documents other than those marked. "Not for Publication" shall be made available on TfSE's website.

37.3 **Where an item or report has been added to an Agenda, any revised Agenda or additional report shall be available for public inspection as soon as the item or report has been added to the Agenda, provided copies are also, at that time, available to Members of TfSE, its Committees and Sub Committees and published on TfSE's website

37.4 Access to Information Procedure Rules

37.5 Except as otherwise indicated, these rules apply to all meetings of TfSE, its Committees and Sub Committees.

37.6 The Rules in this paragraph 37.4 do not affect any more specific rights to information contained elsewhere in these Rules of Procedure or the law.

37.7 TfSE, its Committees and Sub-Committees will supply copies of:

37.7.1 any Agenda and reports that are open to public inspection;

37.7.2 any further statements or particulars, if any, as are necessary to indicate the nature of the items in the Agenda; and

- 37.7.3 if the Lead Officer thinks fit, any other documents supplied to Members in connection with an item to any person on payment of a charge for postage and any other costs, or electronically free of charge.
- 37.8 TfSE, its Committees and Sub Committees will make available copies of the following for six years after a meeting:
- 37.8.1 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;
 - 37.8.2 a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
 - 37.8.3 the Agenda for the meeting;
 - 37.8.4 reports relating to items when the meeting was open to the public.
- 37.9 The Officer responsible for the report 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:
- 37.9.1 disclose any facts or matters on which the report or an important part of the report is based; and
 - 37.9.2 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.

38. Exclusion of access by the public to meetings

38.1 Confidential information – requirement to exclude public

- 38.1.1 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.
- 38.1.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons stated in Article 6.

38.2 Meaning of Confidential Information

Confidential information means information given to TfSE, 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.

38.3 Meaning of Exempt Information

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

- (a) Information relating to any individual;
- (b) Information which is likely to reveal the identity of any individual;
- (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information);
- (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between TfSE, its Committees and Sub Committees and employees or office holders of TfSE;
- (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (f) Information which reveals that TfSE or a TfSE Committees proposes (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;
- (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

38.4 Exclusion of access by the public to reports

38.5 If the Monitoring Officer of the Lead Authority thinks fit, TfSE or a TfSE Committee 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.

ANNEX A - CODE OF CONDUCT FOR MEMBERS

PART 1 GENERAL PROVISIONS

1. General Provisions

- 1.1 TfSE is not required to adopt its own Code of Conduct for Members but each Member of TfSE has been appointed by a Constituent Authority to represent it on TfSE.
- 1.2 In representing their Constituent Authority each Member will be acting as a Member of the Constituent Authority and will be expected to comply with the provisions of their own Code of Conduct.

PART 2 DISCLOSABLE PECUNIARY INTERESTS

2. Notification of Disclosable Pecuniary Interests

- 2.1 Within twenty eight (28) days of becoming a Member, you must notify the Lead Officer of any 'disclosable pecuniary interests' by completing the prescribed form.
- 2.2 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.
- 2.3 **"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 TfSE) 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 TfSE – a) Under which goods or services are to be provided or works are to be executed; and b) Which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of TfSE.
Licences	Any licence (alone or jointly with others) to occupy land in the area of TfSE for a month or longer.
Corporate Tenancies	Any tenancy where (to your knowledge) – a) The landlord is TfSE: and b) The tenant is a body in which you or your partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – a) That body (to your knowledge) has a place of business or land in the area of TfSE; and b) Either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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.

2.4 For the purposes 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 a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union;
- (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 but includes your home; 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.

3. Non-Participation in case of Disclosable Pecuniary Interest

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

- (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 registered you are also required to disclose the interest to the meeting
- (e) If the interest is not registered and is not the subject of a pending notification, you must notify TfSE's Monitoring Officer of the interest within 28 days;
- (f) You are also required to withdraw from the room of the meeting while the matter is being considered.

4. Offences

4.1 It is a criminal offence to:

- 4.1.1 Fail to notify the Lead Officer of any disclosable pecuniary interest within 28 days of appointment as a Member of TfSE;
- 4.1.2 Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register of Interests maintain;

- 4.1.3 Fail to notify the Lead Officer within twenty eight (28) days of a disclosable pecuniary interest that is not on TfSE Register that you have disclosed to a meeting;
 - 4.1.4 Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;
 - 4.1.5 Knowingly or recklessly provide information that is false or misleading in notifying the Lead Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.
- 4.2 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 five (5) years.

ANNEX B – DISTRIBUTION OF VOTES

Constituent authority	Population ¹	Number of votes ²
Brighton and Hove City Council	287,173	2
East Sussex County Council	549,557	4
Hampshire County Council	1,365,103	10
Isle of Wight Council	140,264	1
Kent County Council	1,540,438	11
Medway Council	276,957	2
Portsmouth City Council	213,335	2
Southampton City Council	250,377	2
Surrey County Council	1,180,956	8
West Sussex County Council	846,888	6
- <i>Bracknell Forest Council</i>	119,730	-
- <i>Reading Borough Council</i>	162,701	-
- <i>Royal Borough of Windsor & Maidenhead</i>	149,689	-
- <i>Slough Borough Council</i>	147,736	-
- <i>West Berkshire Council</i>	158,576	-
- <i>Wokingham Borough Council</i>	163,087	-
Berkshire Local Transport Body (total)	901,519	6
Total	7,552,567	54

¹ Population as per ONS 2016 estimates

² Number of votes = population/140,000 (the population of constituent authority with the smallest population, this being the Isle of Wight)