

REPORT TO: Executive Board

DATE: 11 April 2019

REPORTING OFFICER: Strategic Director – Enterprise, Community & Resources

PORTFOLIO: Transportation

TITLE: Mersey Gateway Project Update

WARDS: Borough-wide

1.0 PURPOSE OF REPORT

- 1.1 To provide information on the Mersey Gateway Project from its opening on 14 October 2017 through to 31 January 2019 and to scrutinise the arrangements for the operation and maintenance of the Project post-opening.

2.0 RECOMMENDATION: That the report be noted.

3.0 SUPPORTING INFORMATION

Background

- 3.1 The Mersey Gateway Bridge was successfully completed and opened on 14th October 2017. The Project and the on-going operation of the bridge is managed and overseen on a day-to-day basis, on behalf of the Council, by the Mersey Gateway Crossings Board.
- 3.2 The Mersey Gateway Crossings Board receives regular progress reports concerning a wide range of matters, including in particular the performance of the Project in terms of construction works, maintenance, traffic flows and finance. The Board also monitors the Operator's (Merseylink) performance against the contract (Project Agreement) and the activities of the toll operator Emovis.

Construction and Finishing Works Update

- 3.3 Final completion of the construction works is anticipated during June 2019. The remaining works include the removal of surplus earthworks materials to locations off-site.
- 3.4 Finishing and snagging works continue to be undertaken in various locations. The inspection, snagging and certification processes necessary to allow the Council to take over Ditton Junction have continued and should be completed shortly.
- 3.5 Discussions are taking place with Merseylink regarding the formal handover of Temporary Use Areas within the project boundary, which have to be reinstated in order to allow the Works Completion Certificate to be issued.

- 3.6 Highway construction works associated with the delinking and reconfiguration of the Desoto Road/Queensway approach to the Silver Jubilee Bridge are currently ongoing. Work is also underway to remove a substantial reinforced soil retaining wall at Clark Transport.
- 3.7 The Silver Jubilee Bridge tolling gantries have been erected and the fitting of equipment to the gantries is currently being undertaken. Operational testing of the tolling systems will commence shortly and is expected to be completed by the end of April 2019.
- 3.8 Whilst the Silver Jubilee Bridge currently remains closed for major maintenance and deck reconfiguration works, it is expected to reopen initially for pedestrians and cyclists from late Spring 2019, then to all traffic in 2020.
- 3.9 Removal of stone used to create the North and South salt marsh haul roads and hard standing areas, has accelerated since Christmas. Currently approximately 3,000m³ per week is leaving the sites and completion is anticipated by mid-April 2019.
- 3.10 Removal of the concrete slab protection to the existing gas main in the vicinity of the St Helens canal commenced during January 2019 and is now 2/3^{rds} complete. The remaining work will be undertaken once the removal of the haul road has been completed and therefore vehicular access over the gas main is no longer required.
- 3.11 Other areas of ongoing finishing works include; commissioning of traffic lights at Ditton Junction; reinstatement, fencing and landscaping works in Temporary Use Areas; removal of clean sand and crushed concrete from site; and demolition of Lancer Court buildings at Astmoor.

Operation and Maintenance Update

- 3.12 The Mersey Gateway Crossings Board monitors Merseylink's operational performance against the Project Agreement. A large range of data is monitored and reviewed on an ongoing basis, including; lane closures, defect repairs, safety inspections, street lighting, winter maintenance, planned maintenance and reactive maintenance, and traffic incidents. Any concerns identified are raised with Merseylink to ensure they are rectified within the terms of the Project Agreement.

Economic Impact and Handback Land

- 3.13 Despite current uncertainty in the investment market, primarily related to Brexit, companies are continuing to invest within the Borough. Many companies state that the improved connectivity which the Mersey Gateway Bridge has brought, has been a major factor in determining their investment decisions. Expansion plans have been announced in both Runcorn and Widnes, for example, at Widnes Waterfront, 3MG, Astmoor, and Manor Park.
- 3.14 The residential property market is also buoyant within the Borough. Estate agents report that the opening of the Mersey Gateway Bridge coupled with a lack of property stock, has led to a significant reduction in how long it takes to secure a

sale. Data reported by Rightmove reveals that Runcorn now has the country's fastest moving property market outside London, compared with a year ago. Estate Agents in Runcorn, have confirmed this picture from their experience over the past 12 to 18 months since the Mersey Gateway Bridge opened. They consider the speed of access to Liverpool city centre from Runcorn has made the area even more attractive to buyers and investors, with traffic problems having been alleviated.

- 3.15 The Council is working with Merseylink to conclude the 'hand back' of land which was temporarily required as part of the construction of the Bridge. The return of the land is being overseen by an Independent Assessor, who will determine that this will be in accordance with the requirements of the Project Agreement, which will enable the sites to be brought forward for development in the future.
- 3.16 It is anticipated that most of the land will be returned to the Council by June 2019. Whereupon, the Council will seek to market and promote development sites through the Mersey Gateway Regeneration "PLUS" Strategy. This process will be essential in terms of the Council's future funding, through the potential generation of additional business rates and council tax income. It is worth noting that the Council has already received several expressions of interest regarding the purchase of a number of these sites.

Finances - Update

Project Funding

- 3.17 The Mersey Gateway project requires Government funding in the form of Availability Support Grant (AS grant) and Extended Discount Scheme Grant (EDS grant) in addition to toll/charge income, in order to meet all related project costs.
- 3.18 The EDS grant provides funding for the extension of the Local User Discount Scheme (LUDS) to cover all journeys made by Halton Residents (ie. in addition to the first 300 journeys which are paid for by the Council).
- 3.19 The DfT Funding Letter dated 24 February 2016 sets out the level of Government grant funding for the Mersey Gateway Project. Although there are provisions to seek additional support, a key measure of success of the Project is the ability to stay within the agreed funding levels. The Funding Letter also specifies levels of anticipated expenditure and the success of the Project will be measured by the ability to operate within total anticipated costs.
- 3.20 The Funding Letter provides for the overall Project position to be refreshed on a rolling basis and to this end a rolling Five Year Plan was submitted to DfT based on more up to date information. The success of the Project will also be judged by its performance against the Five Year Plan.
- 3.21 The Five Year Plan was based on lower traffic flows than those in the Funding Letter. However, as the impact of traffic flows on the level of Government grant required over the early years was not material, the agreed grant funding for the first

three years is based on the grants as set out in the Funding Letter. This is reviewed with DfT through a quarterly and annual reporting mechanism.

- 3.22 The Council has taken out prudential borrowing in order to provide its contribution towards funding the project. It is important to monitor the level of borrowing and the rate of interest paid. The project has been established on a maturity loan (interest only) basis from the Council's perspective; a means of repaying the borrowing must be considered at the end of the twenty six and a half year operational period, when responsibility for the structure is handed back to the Council.
- 3.23 From 1st April 2019 both the DfT Funding Letter and the Five Year Plan are being moved onto financial years (1 April to 31 March), in order to be consistent with MGCB and DfT reporting/funding. Therefore, the first full reporting period for the project will be almost 18 months (14 October 2017 to 31 March 2019).

Financial Performance

- 3.24 The Appendix presents a summary of the financial performance of the Mersey Gateway Project for the period from 14 October 2017 to 31 December 2018. This shows the following information;
- (i) Actual project costs and revenues, and variances against both the DfT Funding Letter and Five Year Plan as submitted to DfT.
 - (ii) Funding for the Council's Local User Discount Scheme and the DfT's Extended Discount Scheme.
- 3.25 When the gross theoretical revenues (ie. excluding PCN revenues) are compared to total project costs for the period, the actual shortfall of £23.9m is less than the expected shortfall in both the Funding Letter (£33.2m) and Five Year Plan (£34.0m). The shortfall is funded from the DfT Availability Support grant and Extended Discount Scheme grant. Should performance continue at the same pace, there are no anticipated pressures on Government Funding and therefore the Project is operating within its funding targets.
- 3.26 It should be noted that the shortfall is reduced when actual revenues are compared to project costs. The resultant actual shortfall is £11.6m compared to the Funding Letter (£33.2m) and compared to the Five Year Plan (£34.0m).
- 3.27 Grant monies relating to the period (excluding Liquidity Reserve Fund monies of £9m), consisting of AS grant £25.6m and EDS grant of £8.6m, are more than sufficient to meet the shortfall; indeed there is a surplus of grant monies of £22.6m in the fourteen months to date.
- 3.28 Based on the traffic analysis overall the pattern of journeys for LUDS users has remained steady at 74% undertaking 300 journeys or lower with 26% undertaking more than 300 journeys. Accordingly, the cost of the LUDS during the period met 74% by the Council and 26% by DfT is £13.1m and £4.6m respectively. From the Council's perspective this exceeds the maximum contribution imposed by the

Funding Letter by £1.9m, but for the DfT this represents a positive position being some £4m less than budget.

3.29 With regard to the financial performance information shown in the Appendix, the key reasons for variances are as follows;

- The Mersey Gateway Crossing Board's operational costs have been managed below the levels estimated in the Funding Letter and Five Year Plan.
- Operational Insurances have been secured significantly below estimate.
- The project has incurred interest on the Council's borrowing significantly below that estimated in the Funding Letter, primarily because it was achieved at significantly lower rate of interest rate than anticipated.
- Adjudication costs (calculated by reference to the number of PCNs issued) were not included in the Funding Letter but were included in the subsequent Five Year Plan.
- The Unitary Charge is below estimate due to performance deductions made to date.
- The Surplus Revenue Adjustment is calculated quarterly, becoming payable only if toll revenues exceed certain amounts as set out in the Demand Management Participation Agreement (DMPA). It does not feature in the Funding Letter and Five Year Plan and hence appears as a variance

Local User Discount Scheme (LUDS) and Extended Discount Scheme (EDS)

3.30 Under the Local User Discount Scheme (LUDS) the Council funds the cost of qualifying residents' first 300 journeys in a 12 month period, with the balance of journeys being funded by the DfT. The cost of qualifying journeys is therefore based upon being met 74% by the Council and 26% by the DfT.

3.31 Under the Funding Letter the Council can contribute up to 10% of toll revenues that would have been earned in the absence of any discount scheme, plus their share of procurement savings, in order to fund the LUDS.

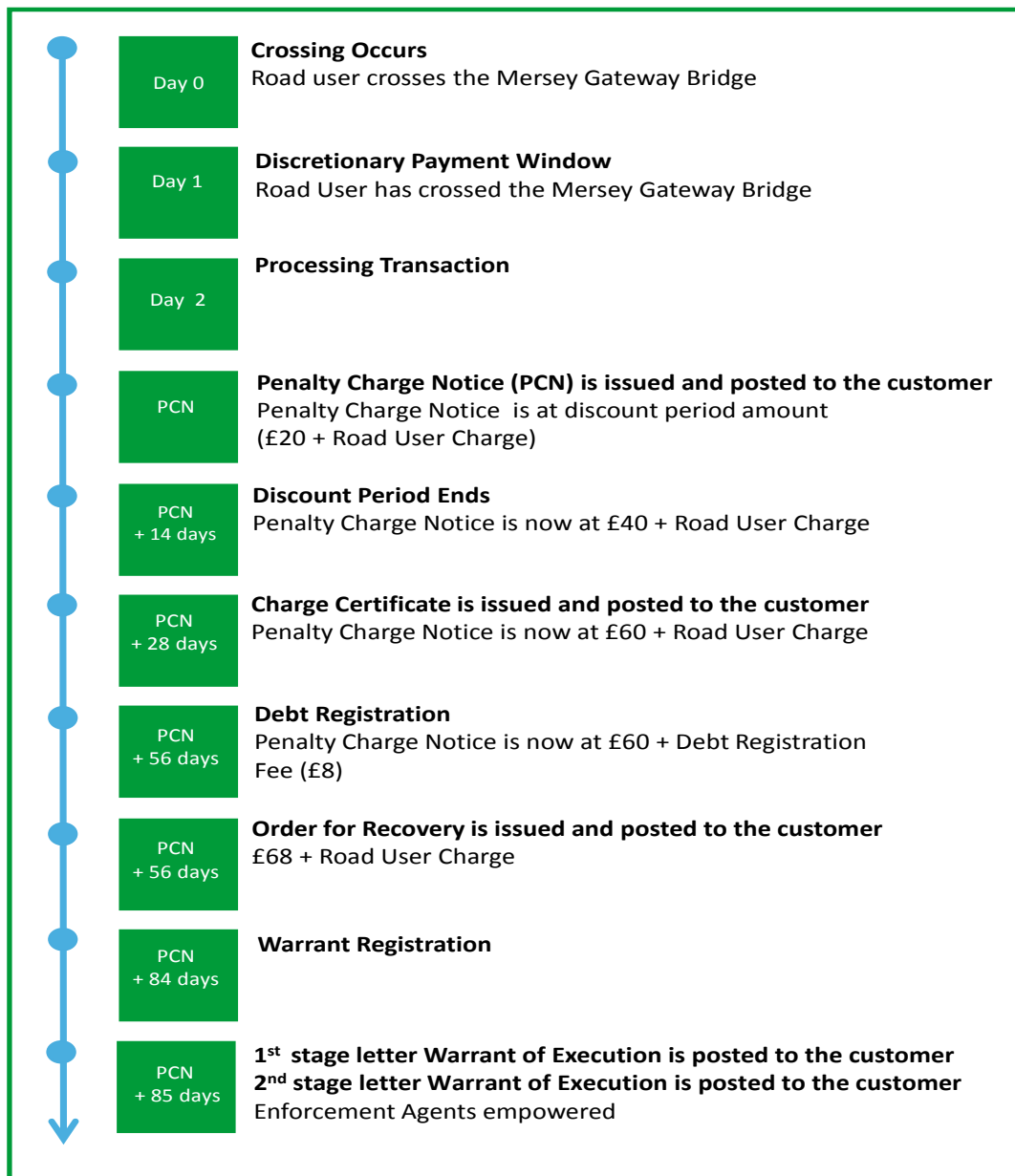
3.32 Based on actual revenues received to 31 December 2018, the estimated cost of LUDS to be met by the Council is £13.1m, which exceeds the funding limits imposed by the Funding Letter by £1.9m. The DfT are aware of the position and are comfortable that overall the project is operating within the grant limits as set out in the Funding Letter.

3.33 The EDS grant required from the DfT during the period to 31 December 2018 was £4.6m and is £4m less than anticipated.

Tolls/Charges/Enforcement

- 3.34 Despite a number of adverse decisions by Adjudicators from the Traffic Penalties Tribunal (TPT), the Council's independent legal advisors have confirmed that the current Tolling/Charging Orders, signage and administration processes remain legally robust. On the basis of this legal advice the Council continues to challenge these decisions.
- 3.35 However, as part of the Council's desire to continually improve, improvements to signage, administrative processes and customer care continue.
- 3.36 The Council's current position is : -
- Adjudication by the Traffic Penalty Tribunal (TPT) cannot and does not, in law, invalidate or remove the powers in place from the 14 October 2017 to administer and enforce tolls/charges on the Mersey Gateway Bridge.
 - Adjudication is specific to the case being considered, and any decision of an Adjudicator only relates to that particular case.
 - A decision of the TPT does not have general effect nor carry any weight as precedent.
 - Any suggestion that the Council has no power to charge or enforce how it does this or that the Council's is acting inappropriately or "illegally" is misleading, inaccurate and wrong in law.
 - Recent Adjudicator decisions in respect of signage are contradictory, for example, in an early case the Adjudicator concluded signage is "large, well sited, in clear view, and to communicate to a driver unfamiliar with the area that a payment was required and how to pay."
- 3.37 The Council will continue to enforce against those who fail to pay to use Mersey Gateway and continue to urge people to pay the charge. Over 96% of users are paying for their crossings on time, experiencing quicker, easier and more reliable journeys across the river.
- 3.38 There has been significant coverage within the written media and on social media regarding the use of enforcement agents to collect debts arising from Mersey Gateway. It must be emphasised that the use of enforcement agents is always a last resort. When issues are raised by members of the public and elected representatives regarding the use of enforcement agents, they are investigated and appropriate action taken.
- 3.39 It is worth noting less than 0.5% of users don't pay. This is an unusually low number and demonstrates :-
- Mersey Gateway's collection systems, on the whole, are working effectively
 - the vast majority of the public accept they have to pay to use Mersey Gateway
 - the vast majority of the public - do pay.

3.40 The information below sets out the charging and enforcement process.



3.41 The Charging Process shows clearly how many opportunities a user has to make a payment before the bailiffs are involved.

Notwithstanding the above the Council do recognise that there are some vulnerable individuals including those with mental health issues or special circumstances and it is important to the Council and the tolling contractor (Emovis) that the enforcement agents engaged by them (Marston Holdings) are able to effectively recognise and respond to such situations in an appropriate manner.

Marston's ethical practice is delivered and assured through an Ethical Governance Framework and includes three key features, Independent Ethical Governance Audits, Ethics Committee and the Independent Advisory Group.

The Council and all parties associated with the project are fully aware of their obligations in respect of these matters and recognise the importance of following the correct processes and procedures. As a result, we will strive to seek improvement in all aspects of performance through continuous review and feedback.

- 3.42 The following links to the Marston's web pages provide helpful information about their ethical approach to debt recovery.

<https://marstonholdings.co.uk>

<https://marstonholdings.co.uk/ethics-and-governance/>

Conclusion

- 3.43 The first fifteen months operation of the Mersey Gateway have been very positive in both operational and financial terms. The Mersey Gateway Crossings Board continues to manage and oversee the Project on a day to day basis on behalf of the Council, and to take any necessary action to ensure the Operator fully complies with the requirements of the Project Agreement.
- 3.44 The remaining elements of the construction phase of the Project are nearing completion, with final completion anticipated during June 2019. The Project will then be solely in the operation and maintenance phase.
- 3.45 Indications are that should the Project's financial performance continue to progress at the current rate, there will be no anticipated difficulties in terms of both the Council's and the Government's funding for the Project, as it is operating within its funding targets.

4.0 POLICY IMPLICATIONS

- 4.1 There are none.

5.0 OTHER IMPLICATIONS

- 5.1 None.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

- 6.1 There are no implications for the Council's priorities.

7.0 RISK ANALYSIS

- 7.1 Performance to date indicates that the Mersey Gateway Project is ahead of target. However, the Project is still in the relatively early stages and although the indications are positive, the results to date should be extrapolated forward with a degree of caution.
- 7.2 The Project is subject to a number of risks and these are managed by the Mersey Gateway Crossings Board on behalf of the Council, captured on the risk registers. The Mersey Gateway Crossings Board's Audit Committee review the detailed risk registers on a regular basis.

8.0 EQUALITY AND DIVERSITY ISSUES

- 8.1 None.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Mersey Gateway DfT Funding Letter	Mersey Gateway Crossings Board Limited, Forward Point, Tanhouse Lane, Widnes, WA80SL	David Lyon
Mersey Gateway Five Year Plan	“	“

Appendix

Mersey Gateway Financial Performance 14 October 2017 to 31 December 2018

	Forecast		Actual Costs £'000	Variances	
	5 Year Plan £'000	Funding Letter £'000		To 5 Year Plan £'000	To Funding Letter £'000
MGCB Operating Costs	2,853	2,957	2,207	647	750
Operational Insurances	1,789	1,694	489	1,301	1,205
Prudential Borrowings Interest	6,302	9,027	6,213	89	2,815
HMT Fee	179	219	179	0	40
Adjudication Costs	506	0	493	13	-493
Sustainable Transport	608	0	61	547	-61
HBC Costs	178	0	195	-17	-195
Unitary Charge	44,840	44,840	43,289	1,550	1,550
Service Subsidy	9,964	9,964	10,162	-198	-198
Surplus Revenue Adjustment	0	0	3,164	-3,164	-3,164
Total Costs	67,219	68,701	66,451	767	2,249
Gross Theoretical Revenue ¹	33,122	35,471	42,524	9,402	7,053
Shortfall / Surplus	-34,092	-33,225	-23,927	10,165	9,297
Actual Revenue ¹	33,122	35,471	54,836	21,714	19,365
Shortfall / Surplus	-34,092	-33,225	-11,615	22,477	21,610
DfT Availability Support Grant (estimated average per annum)	25,585	25,585	25,585	0	0

Note 1 Gross Theoretical Revenue excludes PCN revenues whereas Actual Revenue includes them.

Local User Discount Scheme & Extended Discount Scheme – Crossing Numbers

Month	Number of Crossings		
	Less Than 25 Trips	More Than 25 Trips	Total
December 2018	506,299	163,162	669,461
November 2018	497,784	202,864	700,648
October 2018	509,975	211,958	721,933
September 2018	504,720	185,591	690,311
August 2018	507,623	191,795	699,418
July 2018	491,935	168,465	660,400
Period To 30/06/18	4,234,088	1,454,389	5,687,438
Total	5,738,366	2,000,240	7,737,567

Local User Discount Scheme and Extended Discount Scheme – Funding

	Actual Revenue (£'000)	Gross Theoretical Revenue (£'000)
Local User Discount Scheme		
Total Revenue	54,836	42,524
LUDS (Forsaken Revenue)	<u>17,695</u>	<u>17,695</u>
Grand Total Revenue	<u>72,532</u>	<u>60,219</u>
10% of Revenue Used for LUDS Council Share of Procurement Savings	<u>7,253</u> <u>3,898</u>	<u>6,022</u> <u>3,898</u>
Total Available for LUDS	<u>11,151</u>	<u>9,920</u>
Cost of LUDS (<300 Trips)	<u>13,054</u>	<u>13,054</u>
Shortfall	<u><u>-1,903</u></u>	<u><u>-3,135</u></u>
Extended Discount Scheme		
EDS DfT Grant	8,623	8,623
Cost of EDS	4,641	4,641
Remaining DfT EDS Funding	<u><u>3,982</u></u>	<u><u>3,982</u></u>