

Remuneration Committee

Chair's Action

Date Issued: 11 May 2023

Item: Performance Awards and the Financial Overlay Trigger

This paper will be published once the decision has been made

1 Summary

- 1.1 This paper considers the Committee's decision by Chair's Action on 1 November 2021 to apply a "financial overlay trigger" to the payment of any performance awards for the years 2021/22 and 2022/23. The overlay trigger required TfL to achieve operational financial sustainability by April 2023, defined as being free from extraordinary Government support for revenue funding. This decision was consistent with the 'extraordinary funding agreement' in place at the time with Government.
- 1.2 However, subsequent funding agreements contained different requirements regarding financial sustainability. The long-term funding agreement agreed in August 2022 to cover the period up to 31 March 2024, changed some critical terms of the funding arrangement in a way that voided the original measure for determining whether financial sustainability has been achieved as part of the original financial overlay trigger.
- 1.3 This paper sets out the position on the financial sustainability requirements as set out in the latest funding agreement with Government and makes proposals for how the financial overlay trigger has been met to accommodate the approach taken in the latest funding agreement and following the Board approval of the 2023/24 budget.
- 1.4 To ensure rigour and independence in its application, the Committee is being asked to consider whether the trigger has been met.
- 1.5 The use of Chair's Action is considered appropriate as a decision on whether the financial overlay trigger has been met is required before the papers on the performance of the Commissioner and Chief Officers are prepared for the Committee's consideration at its meeting on 12 June 2023.
- 1.6 The members of the Remuneration Committee are asked to consider the paper and provide its Chair, Kay Carberry CBE, with their views on or before noon on Tuesday 16 May 2023. The exercise of Chair's Action will be reported to the next meeting of the Committee.

2 Recommendation

- 2.1 **The Chair of the Remuneration Committee (in consultation with its**

members) is asked to note the paper and:

- (a) **agree that following alignment with the 30 August 2022 long-term funding agreement and 2023 TfL Business Plan, TfL will reach financial sustainability and therefore the mechanism for determining the financial overlay trigger has been met; and**
- (b) **note, that consequently, in line with the agreed outcome of the TfL Scorecard delivery for 2021/22 and 2022/23, performance awards will be payable subject to the usual assessment process.**

3 Background

- 3.1 The information below sets out the sequence of the funding arrangements with Government implemented since the financial overlay trigger was agreed by the Committee by Chair's Action on 1 November 2021. The information demonstrates how the funding requirements that the original financial overlay trigger was based on have changed, and proposes that the financial overlay trigger mechanism is appropriately aligned to the requirements of the final long-term funding arrangement set in August 2022.
- 3.2 The Committee decided in June 2020 that, due to the very significant financial challenges faced by TfL, the then ongoing discussions with Government about longer term funding requirements and future revenue risk, pay-out of all 2019/20 senior management performance awards was deferred for 12 months to June 2021.
- 3.3 The Committee also agreed that all senior management performance award schemes would be suspended for the financial year 2020/21. No payments were made for that year.
- 3.4 The 30 June 2021 funding agreement, originally covering the period to 11 December 2021, but subsequently extended to 25 February 2022, included the following requirement:
 - (a) 'The Government announced that it would pause headline pay awards across the public sector on 25 November 2020. We expect TfL to freeze pay in line with the public sector pay pause and the funding outlined in para 25 above is based on this, while TfL is in receipt of significant extraordinary funding. Any bonus pay awards will not be paid for through extraordinary Government funding and TfL will have to demonstrate prudence in making any such payments. We do not expect TfL to authorise individual bonus pay awards.'
- 3.5 While there is no single 'public sector pay policy', in discussions with Government they referred TfL to the Civil Service Pay Remit Guidance. For 2021/22 (published 25 March 2021), the [guidance](#) includes the following on performance related pay awards (section 2.5):
 - (a) Non-consolidated performance pay will continue to be managed, as in previous years, within each department's non-consolidated performance

pay “pot” calculated as a fixed percentage of pay bill. With the agreement of HMT and Cabinet Office, departments have the option of transferring money between their consolidated and non-consolidated pots as set out below in 4.2; and

- (b) Requests to increase the size of the non-consolidated performance pay “pot”, permanently or temporarily, will not be considered. Public sector organisations are encouraged to target their funds to ensure there are enough staff to deliver vital public services.

3.6 On 1 November 2021, the Committee approved by Chair’s Action the implementation of performance award arrangements for 2021/22 and 2022/23 with an amended scheme design that ensured compliance with the 30 June 2021 funding agreement. The Committee agreed to the implementation of a ‘financial overlay trigger’ to be incorporated into the annual schemes to ensure compliance with funding requirements:

- (a) The financial overlay trigger will act as a separate overriding financial performance condition (independent of the annual scorecard and individual performance rating conditions) and will require TfL to deliver its business plan to become (operationally) financially sustainable, free of ‘extraordinary Government funding’ by 1 April 2023. It will be evidenced by the annual budget and business plan that is set for 2023/24 financial year.

3.7 TfL’s annual performance award schemes continued in their existing format with performance award budgets assessed for a one-year performance period determined by annual business scorecard results and with individual awards calculated by linking performance ratings to a multiplier used against the calculated budget. Payment of the annual performance award amounts for 2021/22 and 2022/23 was dependent upon achievement of the financial overlay trigger.

3.8 In October 2021, it was envisaged that any Government funding for 2023/24 would be capital funding only, and that operating funding would end in March 2023.

3.9 The 25 February 2022 funding agreement originally covered the period to 24 June 2022, but was subsequently extended to 3 August 2022, and included the following condition:

- (a) On 27 October 2021, HMG announced that the public sector pay pause for 2021/22 will be lifted in 2022/23. We expect TfL to continue to follow public sector pay policy while in receipt of extraordinary funding. Any bonus pay awards will not be paid for through extraordinary Government funding and TfL will have to demonstrate prudence in making any such payments. We do not expect TfL to authorise individual bonus pay awards.

3.10 On 30 August 2022, the long-term funding agreement with Government, covering the period to 31 March 2024 included the following requirement:

- (a) That TfL's pay award for 2022/23 continues to follow public sector pay policy, and the assumptions set out in TfL's latest budget. TfL will provide an update on pay at the Oversight Group meeting (as set out in paragraph 58). The Operating Envelope may need to be updated each year, after public sector pay guidance is issued.

Impact of changes in Government funding requirements June 2021 – August 2022

- 3.11 In the long-term funding arrangement of August 2022, there is no requirement relating to performance awards.
- 3.12 The long-term funding arrangement brought an end to the term 'extraordinary Government funding' which the previous funding conditions had prohibited to be used for performance awards and was the terminology used in the financial overlay trigger. Instead, the August 2022 agreement referred to Government funding as 'long-term funding'.
- 3.13 Public Sector pay policy (as defined by the Civil Service Pay Remit) allows non-consolidated performance awards to be paid in 2021/22 and 2022/23.
- 3.14 The operating funding was extended to 31 March 2024 (having originally been expected to end on 31 March 2023).
- 3.15 The TfL 2023 Business Plan, approved by the Board on 7 December 2023, demonstrated that TfL would achieve operating financial sustainability in 2023/24, as all Government base funding will be allocated to fund new capital investment.
- 3.16 Inflation has increased significantly compared with the level envisaged when the Financial Overlay Trigger was set. Compared to the March 2022 Budget the impact of increased inflation on TfL's costs in 2023/24 is £289m. Whilst we expect this to be offset by additional inflation funding, this has impacted the achievement of operating financial sustainability.
- 3.17 The weaker economic outlook has been a downward pressure on demand, which is protected by the revenue top-up mechanism but this also makes operating financial sustainability more challenging.

4 Proposal to confirm that the Financial Overlay Trigger applicable for 2021/22 and 2022/23 has been met.

- 4.1 Following alignment with the 30 August 2022 long-term funding agreement and 2023 TfL Business Plan, approved by the Board on 29 March 2023, TfL will reach financial sustainability through the following:
 - (a) allocation of all Government base funding in 2023/24 to capital enhancement investment, demonstrating the achievement of operational financial sustainability; and

(b) having a 2023/24 operating surplus equal to, or better than, the £5m set out in the 2023 TfL Business Plan.

- 4.2 The financial overlay trigger remains as a separate overriding financial performance condition independent of the annual scorecard and individual performance rating conditions. It applies to all our other performance award arrangements including individual performance arrangements and performance awards for payband 2 & 3 under the Pay for Performance framework.
- 4.3 The financial overlay trigger continues to have no bearing on the calculation of the quantum of annual performance award budgets but acts as a necessary performance trigger to ensure that the requirements of the Government funding agreement have been met.
- 4.4 To ensure rigour and independence in the application of the financial overlay trigger, the Committee is requested to consider whether the financial overlay trigger has been met (via the use of this Chairs Action) following the agreement by the TfL Board of an approved budget on 29 March 2023.

List of appendices to this report:

None

List of Background Papers:

Senior Management Performance Award Scheme Chair's Action paper, approved 1 November 2021
Extraordinary Funding and Finance Agreements, 30 June 2021 and 25 February 2022.
Long-term Funding Settlement, 30 August 2022

Contact Officer Stephen Field, Director of Pensions and Reward
Email: stephenfield@tfl.gov.uk

Contact Officer: Patrick Doig, Group Finance Director
Email: patrickdoig@tfl.gov.uk