



Department
for Transport

HS2 Phase One: Traffic Regulation Orders Guidance for local Traffic Authorities

High Speed Rail (London – West Midlands) Act 2017:
Statement by the Secretary of State for Transport under paragraph 13
of Schedule 25 to the Act

November 2017

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1. Introduction

1.1 Under paragraph 13(1) of Schedule 25 to the High Speed Rail (London – West Midlands) Act 2017 (the “Act”) the Secretary of State must prepare a statement setting out, in general terms:-

1.1.1 Guidance to traffic authorities in connection with the duty under paragraph 1(2) of Schedule 25 to the Act (“Schedule 25”) which requires a traffic authority for a relevant road (as defined in paragraph 1(3) of Schedule 25) to consult the Secretary of State where it proposes to make a traffic regulation order under the provisions of sections 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984 in relation to a relevant road and it appears to the authority that provision made by the proposed order could significantly interfere with the use of the road by heavy commercial vehicles for the purposes of the construction of Phase One of the High Speed 2 railway as defined in section 1(3) of the Act (“HS2 Phase One”), and

1.1.2 How the Secretary of State proposes to exercise the powers conferred on the Secretary of State by paragraphs 1 to 12 of Schedule 25.

1.2 The Secretary of State may from time to time revise this Statement¹.

1.3 In accordance with paragraph 13(3) of Schedule 25, the Secretary of State has consulted High Speed Two (HS2) Ltd as the nominated undertaker for the purposes of the Act², and the following traffic authorities which the Secretary of State considers are likely to be subject to the duty under paragraph 1(2) of Schedule 25 or to be affected by the exercise of the powers in paragraphs 2 to 12 of Schedule 25:-

- Highways England (with respect to powers in paragraphs 4 to 12 of Schedule 25)
- Transport for London
- Birmingham City Council
- Brent London Borough Council
- Buckinghamshire County Council
- Camden London Borough Council
- Ealing London Borough Council
- Hammersmith and Fulham London Borough Council
- Hertfordshire County Council
- Hillingdon London Borough Council
- Kensington and Chelsea London Borough Council
- Northamptonshire County Council

¹ Paragraph 13(2) of Schedule 25.

² The High Speed Rail (London – West Midlands) (Nomination) Order 2017 (S.I. 2017 No. 184).

- Oxfordshire County Council
- Slough Borough Council
- Solihull Metropolitan Borough Council
- Staffordshire County Council
- Warwickshire County Council
- Westminster City Council

- 1.4 This Statement, in particular, includes the matters set out in paragraph 5 of the Deed of Undertaking dated 24 March 2017 given by the Secretary of State to the local authorities listed in paragraph 1.3.
- 1.5 The guidance in this Statement is not legislation and where there appear to be differences between the guidance and the Act, the provisions of the Act will take precedence. Where the Statement says something must be done, this means that it is a requirement in either primary or secondary legislation, and a footnote gives the appropriate provision.
- 1.6 The Secretary of State may choose to revise the Statement having consulted the nominated undertaker and the traffic authorities which may be affected³.

³ Paragraph 13(2) of Schedule 25.

2. Duty to consult the Secretary of State and the exercise of the powers under paragraphs 2 and 3 of Schedule 25

Guidance to traffic authorities in connection with the duty under paragraph 1(2) of Schedule 25 to consult the Secretary of State and the exercise of the powers under paragraphs 2 and 3 of Schedule 25

- 2.1 Under paragraph 1(2) of Schedule 25, a traffic authority is required to consult the Secretary of State with regard to the making of orders under section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984 (“RTRA 1984”) which affect certain roads which are, or may potentially be, used by heavy commercial vehicles for the construction of HS2 Phase One.

The traffic orders to which the duty to consult applies

- 2.2 The duty to consult applies to any order proposed to be made by the traffic authority under section 1, 6, 9 or 14 of the RTRA 1984 which affects certain roads (see paragraph 2.5 below) in the way described in paragraph 2.3. This includes temporary traffic regulation orders. Orders under any of those provisions are referred to in this Statement as “TROs”.
- 2.3 The duty to consult applies where the provision proposed to be made by the TRO would significantly affect the use of a road by heavy commercial vehicles for the purposes of the construction of HS2 Phase One. This includes anything which could prevent or impede heavy commercial vehicles⁴ using the road to access work sites, such as stopping up the road or part of it, making it one way, banning turning movements or imposing a width restriction.
- 2.4 The duty to consult does not apply as respects proposed TROs which only relate to highways such as footpaths which are not capable of being used by heavy commercial vehicles.
- 2.5 The Secretary of State has the power to exempt TROs of a certain description from being covered by the traffic authority’s duty to consult by designating the description of TRO concerned⁵. Notice of the designation must be given to the traffic authorities affected⁶. This power is intended to be exercised if a description of TROs is

⁴ Defined in section 138 of the RTRA 1984.

⁵ Paragraph 2(1)(b) of Schedule 25.

⁶ Paragraph 2(5) of Schedule 25.

identified which would not affect the construction of HS2 Phase One e.g. TROs imposing parking restrictions on a road which forms part of the HS2 Phase One construction route, but is not intended to be used for other construction purposes.

- 2.6 The duty to consult does not apply to special roads or trunk roads and so does not apply as regards TROs made by Highways England.

Roads as respects which the duty to consult applies

- 2.7 The duty to consult applies as respects any road, other than a special road or a trunk road, which falls within one of four categories:-
- 2.7.1 a road which is part of a route identified as a proposed construction traffic route in any environmental statement deposited in Parliament in connection with the Bill for the Act (“the ES”);
 - 2.7.2 a road which is part of a route in relation to which approval has been given under paragraph 6 of Schedule 17 to the Act (routes for transportation by large goods vehicles);
 - 2.7.3 where a request for approval under paragraph 6 of Schedule 17 has been made but not yet determined, a road which is part of a route to which the request for approval relates;
 - 2.7.4 a road any part of which is within the limits shown on the plans deposited in Parliament in connection with the Bill for the Act.
- 2.8 The requirement to consult the Secretary of State does not apply to orders which are proposed to be made under section 16A of the RTRA 1984 (which are not TROs as defined in Schedule 25) or any matters such as the delivery of highway works which do not require to be authorised by a TRO. Any such proposed section 16A order or matter, though not within the scope of Schedule 25, should be discussed with HS2 Limited via the relevant Local Traffic Liaison Meetings established in accordance with the HS2 Code of Construction Practice and the HS2 Phase One Route-wide Traffic Management Plan.
- 2.9 Where the traffic authority for an area is a qualifying authority under Schedule 17 to the Act, the main construction routes for HS2 Phase One in the area (i.e. those to be used by large goods vehicles travelling to and from a site where there are more than 24 movements per day) must be approved by the authority. The applications for approval will be made by the contractors carrying out the Phase One works and the timing of the applications will follow the construction programme of Phase One. There is therefore likely to be a series of applications.
- 2.10 In many cases the construction routes for which Schedule 17 applications are made and approved will be the same as the routes identified in the ES. So in practice there will be considerable overlap between roads falling within category 2.7.1, 2.7.2 or 2.7.3. However, in some cases the approved routes will differ from those identified in the ES with the result that some roads identified in the ES may not be needed as construction routes. Following identification of the road network required for HS2 Phase One construction within the Local Traffic Management Plans (prepared in accordance with the HS2 Phase One Code of Construction Practice) it may become clear that certain roads specified as construction routes in the ES are not, or are not for the time being, needed in connection with the construction of HS2 Phase One. In that case, the Secretary of State will, as soon as reasonably practicable after forming

that view, give the relevant traffic authority notice that the consultation duty no longer applies as regards that road, or part of the road⁷. The duty to consult on proposed TROs affecting that road or part of the road will then no longer apply unless and until a further notice is given by the Secretary of State⁸.

- 2.11 In the case of a TRO under section 1, 6 or 9 of the RTRA 1984, the consultation process should follow the usual process for other statutory consultees under the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. So the traffic authority should send the Secretary of State (by email to TROs@hs2.org.uk) a copy of the notice of proposals containing the particulars specified in Parts I and II of Schedule 1 to the 1996 Regulations. Any objection by the Secretary of State may be made within the same timeframe as other objections, i.e. by the date specified in the notice of proposals or, if later, the end of the period of 21 calendar days beginning with the date on which the traffic authority has complied with the requirements of Regulation 7(1) to (3) of the 1996 Regulations⁹.
- 2.12 The Provisions of the 1996 Regulations should be applied, taking into account any objection (whether made by the Secretary of State or other consultees). As in other cases, it will be for the relevant traffic authority to decide whether a public inquiry should be held and whether the TRO should be modified in consequence of any such objection.
- 2.13 In the case of a TRO under section 14 of the RTRA 1984, the usual process under the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 should be modified to enable consultation to take place. A notice stating the particulars required by Regulation 3 of the 1992 Regulations i.e.:-
- the reason or purpose of the proposed TRO;
 - the effect of the TRO and, where applicable, the alternative route or routes available for traffic; and
 - the date on which the TRO would come into force and its maximum duration, should be sent to the Secretary of State (by email to TROs@hs2.org.uk) not less than 21 calendar days before the proposed TRO is made.
- 2.14 Any objection by the Secretary of State should be taken into account by the traffic authority in deciding whether to make the proposed TRO or modify its terms.
- 2.15 It should be noted that the Secretary of State has the power to give a traffic authority a direction prohibiting the authority from making or bringing into operation a TRO if the Secretary of State considers that the TRO could significantly interfere with the use of any road for the purposes of the construction of HS2 Phase One¹⁰. The Secretary of State also has the power to vary or revoke a TRO if the Secretary of State considers the variation or revocation to be necessary for the purposes of the timely, efficient and cost-effective construction of HS2 Phase One and reasonable in the circumstances¹¹. Those powers could, for example, be exercised where a traffic authority proceeds to make a TRO to which the Secretary of State has objected.

⁷ Paragraph 2(3) of Schedule 25.

⁸ Paragraph 2(2) of Schedule 25.

⁹ Regulation 8 of the 1996 Regulations.

¹⁰ Paragraph 11 of Schedule 25.

¹¹ Paragraph 9 of Schedule 25.

Emergencies

2.16 Where a traffic authority needs to make a TRO under section 14 of the RTRA 1984 to meet an emergency, the period of consultation of 21 calendar days before the making of the TRO mentioned in paragraph 2.13 may be shortened as necessary. In that case the traffic authority should give the Secretary of State as much notice of the proposed making of the TRO, together with the details mentioned in paragraph 2.13, as is reasonably practicable.

Cessation of the duty to consult under paragraph 1(2) of Schedule 25

2.17 The purpose of the consultation requirement under paragraph 1(2) is to safeguard the use of roads by heavy commercial vehicles for the construction of HS2 Phase One. The Act therefore makes provision for the duty to consult to cease when construction (or a relevant part of construction) has been completed¹².

2.18 If the Secretary of State forms the view that no further works are proposed to be constructed under the Act in a traffic authority's area and the use of roads in the area is no longer required by heavy commercial vehicles for the purposes of the construction of HS2 Phase One, the Secretary of State must as soon as reasonably practicable give the authority notice. The effect of a notice is that the duty to consult on TROs in that area will cease¹³.

2.19 A notice terminating the duty to consult as respects TROs in a particular part of the area of a traffic authority must also be given if the Secretary of State reasonably considers that the part can be treated separately from the rest of the authority's area and that the conditions mentioned in paragraph 2.18 are met as regards that part¹⁴.

Notice under paragraph 3(1) of Schedule 25 as respects roads in certain London boroughs

2.20 The Secretary of State has determined under paragraph 3(1) of Schedule 25, and by this guidance gives notice, that the duty to consult is not to apply as regards any road (or part of a road) comprised in any part of the TLRN¹⁵ which is within the area of any of the London Boroughs set out in paragraph 2.21 below.

2.21 The London Boroughs referred to in paragraph 2.20 are:-

- The London Borough of Barking and Dagenham
- The London Borough of Barnet
- The London Borough of Bexley
- The London Borough of Bromley
- The London Borough of Croydon

¹² Paragraph 3 of Schedule 25.

¹³ Paragraph 3(1), (3) and (4)(a) of Schedule 25.

¹⁴ Paragraph 3(2), (3) and (4)(b) of Schedule 25.

¹⁵ For this purpose, the TLRN is the Transport for London Road Network comprising all the roads which for the time being are, or may come to be, GLA Roads or GLA Side Roads.

- The London Borough of Enfield
- The London Borough of Greenwich
- The London Borough of Hackney
- The London Borough of Haringey
- The London Borough of Harrow
- The London Borough of Havering
- The London Borough of Hounslow
- The London Borough of Kingston
- The London Borough of Lewisham
- The London Borough of Merton
- The London Borough of Newham
- The London Borough of Redbridge
- The London Borough of Richmond
- The London Borough of Sutton
- The London Borough of Waltham Forest
- The London Borough of Wandsworth.

3. How the Secretary of State proposes to exercise the powers conferred under paragraphs 4 to 12 of Schedule 25

Applications for Traffic Regulation Orders (TROs)

- 3.1 The proposed highway works required for HS2 Phase One and the related need for traffic management measures will be discussed with the relevant highway/traffic authority and representatives of the emergency services. Such engagement will take place through the Local Traffic Liaison Group meetings established in accordance with the HS2 Phase One Code of Construction Practice and through consultation and formal submissions for consent or approval as required under Schedule 4 and Part 1 of Schedule 33 to the Act. The need for new temporary or permanent TROs, or TROs to vary or revoke existing TROs, will be identified as part of that engagement process.
- 3.2 The times at which such TROs are required to take effect will depend on the HS2 Phase One construction programme.
- 3.3 Where it is identified that a TRO (whether new or to revoke or vary an existing TRO) is needed for the construction of HS2, it is intended that an application for the TRO should be made to the relevant traffic authority and be dealt with in the normal way and that recourse will only be had to the default powers in Schedule 25 should the traffic authority fail to deal with the application reasonably expeditiously, refuse to make the TRO or in other exceptional circumstances.
- 3.4 The application for the TRO will normally be submitted by the relevant contractor. For TROs under section 1, 6 or 9 of the RTRA 1984, the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 apply, except where Highways England is the highway authority in which case the Secretary of State's Traffic Orders (Procedure) (England and Wales) Regulations 1990 apply. For TROs under section 14 of the RTRA 1984, the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 apply. In particular, the usual application fees will be payable. In making the application, sufficient time will also need to be allowed to carry out the process of consultation and/or obtaining any consents or approvals required under Schedule 4 or Part 1 of Schedule 33 to the Act.
- 3.5 Once any relevant requirements under Schedule 4 or Part 1 of Schedule 33 have been complied with, the traffic authority will be expected to deal with the application reasonably expeditiously.

Secretary of State Directions

- 3.6 If the traffic authority:-

- a. notifies the applicant that the application for the TRO is refused,
- b. fails to commence the order making process within 14 calendar days, or
- c. does not make the TRO in a timely way,

HS2 Limited will request the Secretary of State to exercise the powers under Schedule 25 to direct the traffic authority to make the TRO¹⁶. If that direction is not complied with the TRO can be made by the Secretary of State¹⁷.

- 3.7 Before exercising the power to direct an authority to make a TRO, or for the Secretary of State to make a TRO, the Secretary of State must consult the traffic authority concerned¹⁸. The purpose of the consultation is to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience and to take account of any statutory requirements to which the authority may be subject or any requirement under an agreement or undertaking entered into in pursuance of an enactment¹⁹. An example of such a requirement is the duty of the traffic authority under section 122(1) of the RTRA 1984 to exercise its functions under the RTRA 1984 (so far as practicable having regard to the matters set out in section 122(2)) to secure the expeditious, convenient and safe movement of vehicular and other traffic.
- 3.8 The process for consultation is set out in paragraphs 3.20 to 3.31.

Effect of the TRO powers on future bus lanes, cycleways, speed restrictions or restrictions on heavy commercial vehicles and new or altered parking places

- 3.9 Every case where a bus lane, cycleway, speed restriction or restriction on heavy commercial vehicles is introduced on roads used, or to be used, for the purposes of HS2 Phase One construction will be considered on an individual basis to assess whether the following conditions are satisfied:-
- 3.9.1 whether the proposed measure could significantly interfere with the use of the road by heavy commercial vehicles for the purposes of the construction of HS2 Phase One;
- 3.9.2 whether it is necessary to prevent or reduce that interference for the purposes of the timely, efficient and cost-effective construction of HS2 Phase One; and
- 3.9.3 whether it is reasonable in the circumstances to prevent or reduce that interference.
- 3.10 Only if the conditions stated in 3.9.1, 3.9.2 and 3.9.3 are satisfied, will the powers under paragraphs 4 to 12 of Schedule 25 to the Act (“the TRO powers”) be exercised to prevent the change taking place or to reverse or modify it.
- 3.11 The general statements set out in paragraphs 3.12 to 3.19 are subject to consideration of the individual circumstances in each case.
- 3.12 It is unlikely that the TRO powers will need to be exercised to prevent or modify the introduction of bus lanes or cycleways on roads used, or to be used, as construction routes by heavy commercial vehicles for HS2 Phase One purposes provided that the

¹⁶ Paragraph 4 of Schedule 25.

¹⁷ Paragraph 8 of Schedule 25.

¹⁸ Paragraph 12(1) of Schedule 25.

¹⁹ Paragraph 12(2) of Schedule 25.

bus lanes or cycleways do not prevent such vehicles from travelling along the road or from turning onto another route to be used by the vehicles.

- 3.13 It is unlikely that the TRO powers will need to be exercised to prevent or modify the introduction of new speed restrictions on roads used, or to be used, by heavy commercial vehicles for the purposes of the construction of HS2 Phase One provided that the speed restrictions are reasonable and justifiable on general safety or environmental grounds and comply with Circular 01/2013 “Setting Local Speed Limits” and the Traffic Signs Regulations and General Directions 2016.
- 3.14 It is unlikely that the TRO powers will need to be exercised to prevent the making of new parking places or the modification of existing parking places provided that the remaining carriageway width used for traffic lanes is capable of being used by heavy commercial vehicles (including two-way use on a two-way single carriageway).
- 3.15 New restrictions which prohibit or physically prevent the movement of heavy commercial vehicles on roads (such as the prohibition of movements along a road or turning movements or restrictions on the times of day when classes of vehicles can use a road) have the potential to interfere with securing the timely, efficient and cost effective construction of HS2 Phase One. Any new restrictions on heavy commercial vehicles will be considered on an individual basis to assess whether the conditions stated in 3.9.1, 3.9.2 and 3.9.3 are satisfied and, if so, whether the TRO powers need to be exercised to prevent or reduce the restrictions.

Effect of the TRO powers on any future changes to existing bus lanes or cycleways or existing restrictions on speed or heavy commercial vehicles

- 3.16 The principles in paragraphs 3.9 to 3.15 apply equally where changes are made which extend existing bus lanes or cycleways, impose lower speed restrictions or increase restrictions on the use of roads by heavy commercial vehicles.

Effect of the TRO powers on any future changes to the London Safer Lorry Scheme

- 3.17 It is intended that HS2 Ltd will seek to comply with any change made to the London Safer Lorry Scheme subject to applying the conditions stated in 3.9.1, 3.9.2 and 3.9.3 to the change. In assessing whether it would be reasonable to exercise the TRO powers so as to modify any such change in relation to heavy commercial vehicles used for the purposes of the construction of HS2 Phase One, the Secretary of State will have regard to the ability of the HS2 contractors, which include small and medium business enterprises, to comply with the change to the scheme in a way which is consistent with the timely, efficient and cost-effective delivery of HS2 Phase One.

When will the powers to direct a traffic authority to make a TRO require the making of a TRO under section 14 rather than under section 1 or 6 of the RTRA 1984?

- 3.18 Where the Secretary of State directs a traffic authority to make a TRO, the direction will normally be for the TRO to be under section 14 of the RTRA 1984 where it can be made subject to the time limits in section 15 of the RTRA 1984. Where it is expected that the TRO will only be needed for a period of up to 18 months or for the duration of works to be executed on or near the road which are specified in the order, it will be appropriate for the Secretary of State to direct that the TRO should be made under section 14. If the section 14 TRO is made for a fixed period of up to 18 months, it will be possible for that period to be extended as provided by section 15 of the RTRA 1984.
- 3.19 In other cases, the Secretary of State will direct the order to be made under section 1 or 6 of the RTRA 1984.

Process for consultation by the Secretary of State

- 3.20 The TRO powers will normally be exercised at the request of HS2 Ltd, as the nominated undertaker.
- 3.21 Where HS2 Ltd requests the Secretary of State to exercise the powers to give a direction to a traffic authority under paragraph 4, 7 or 11 of Schedule 25 or to make a TRO under paragraph 8(2) or 9 of Schedule 25 which relates to a TRO made by the authority, HS2 Ltd should provide the Secretary of State with the following information:-
- 3.21.1 a statement setting out why it is considered that the TRO is necessary for the timely, efficient and cost-effective construction of HS2 Phase One and is reasonable in the circumstances; and
- 3.21.2 details of any relevant consultation undertaken with the authority including, where relevant, any representations received.
- 3.22 Where the request is for the Secretary of State to give the traffic authority a direction under paragraph 4 or 7 of Schedule 25 or to make a TRO under paragraph 8(2) or 9 of Schedule 25 which relates to a TRO made by the authority, HS2 Ltd should, in addition to the matters mentioned in paragraph 3.21, provide the Secretary of State with:-
- 3.22.1 details of the order requested and any associated drawings;
- 3.22.2 a broad description of the works in connection with which the order is sought; and
- 3.22.3 a statement setting out whether the order relates to matters which are subject to consultation or consent or approval under Schedule 4 or Part 1 of Schedule 33 to the Act and, if so, what consultation has been undertaken pursuant to that requirement and whether such consent or approval has been given or refused.
- 3.23 The Secretary of State may request HS2 Ltd to provide any further information which he or she considers necessary to determine the request.
- 3.24 A copy of the information provided to the Secretary of State under paragraphs 3.21 to 3.23 should be provided to the relevant traffic authority.
- 3.25 If the Secretary of State is not satisfied from the information provided by HS2 Ltd that the direction or order requested is necessary for the timely, efficient and cost-effective construction of HS2 Phase One and is reasonable in the circumstances, the Secretary of State will inform HS2 Ltd and the traffic authority.

- 3.26 If it appears to the Secretary of State from the information provided by HS2 Ltd that the direction or order requested may be necessary for the timely, efficient and cost-effective construction of HS2 Phase One and may be reasonable in the circumstances, paragraphs 3.27 to 3.31 will apply.
- 3.27 The Secretary of State will invite the traffic authority concerned to make any representations within a specified period of not less than 2 months. However, that period may be shortened by agreement.
- 3.28 The Secretary of State will consider all representations of the traffic authority which are relevant to the purpose of the consultation which is:-
- 3.28.1 to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience; and
- 3.28.2 to take account of the requirements (however expressed) to which the traffic authority is subject under an enactment or under an agreement or undertaking entered into in pursuance of an enactment²⁰.
- 3.29 The matters which the Secretary of State will take into account include:-
- 3.29.1 the anticipated environmental (including traffic and transport) effects arising from the proposed exercise of the power; and
- 3.29.2 any effects arising from the proposed exercise of the power on any proposals the traffic authority concerned may have for implementing its transport policies or capital or maintenance programmes.
- 3.30 If no representations are made by the traffic authority within the period specified by the Secretary of State, the Secretary of State will decide whether to give the direction or make the order requested by HS2 Ltd.
- 3.31 If the traffic authority makes representations, the Secretary of State will consider the representations and decide whether to give the direction or make the order, normally within one month of receiving the representations.

Costs

- 3.32 It is not considered that the provisions of Schedule 25 place a new financial burden on local authorities meeting the Department for Communities and Local Government's New Burdens Doctrine's definition of a new financial burden. As regards the duty under paragraph 1(2) to consult the Secretary of State, traffic authorities are already required to carry out a consultation exercise in making TROs. Applications to traffic authorities for TROs made by contractors for HS2 Phase One will be subject to the usual application fees.
- 3.33 However, if local authorities consider in the light of actual experience that new financial burdens are placed on them by the provisions of Schedule 25 they should provide HS2 Ltd and DfT with detailed evidence to support their claim for additional funding. Where this evidence meets the New Burdens Doctrine's criteria of a new financial burden the authority's reasonable costs will be reimbursed, even if that activity was previously considered exempt from funding.

²⁰ Paragraph 12(2) of Schedule 25.