



Nottingham City Council

Moving Traffic Enforcement Guidelines & Practice

Supplementary Procedures - Surplus Income



Nottingham
City Council

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1. INTRODUCTION

This supplementary policy document sets out an understanding of NCC's Moving Traffic Enforcement (formerly Bus Lane Enforcement) fiscal arrangements, particularly related to the following areas:

- a) Defining legitimate expenditure.
- b) Ringfencing budget area to clearly indicate any surplus, and what it has been used for.
- c) Inappropriate use of the Moving Traffic Enforcement income to support the Council's MTFP.
- d) Producing detailed accounts, together with Civil Parking Enforcements activities, and submitting them to the Department for Transport (DfT).

The contents of this policy document are set out to formally address points (b) and (c) above.

2. BACKGROUND

Bus lane / Moving Traffic Enforcement Income.

Following changes to legislation back in 2008, Nottingham City Council have undertaken CCTV Traffic Enforcement duties covering Bus Lanes, School Keep Clear and Red Routes.

Addressing the Issues

a) Defining legitimate expenditure:

Following advice from NCC's legal team and discussions with other authorities, the Traffic Service area have now clearly determined the areas of its current budget that can be classed as legitimate expenditure to support the outcomes of the TMA 2004 related to Moving Traffic Enforcement. (reducing congestion, prioritizing bus movements, etc.)

These budget changes have been introduced this year and will ensure that any enforcement income received in excess of this revised operational budget (surplus), will be placed in a ring-fenced reserve to be used in accordance with the appropriate regulations.

b) Ringfencing budget area to clearly indicate any surplus, and what it has been used for.

Based on the legal advice and the newly formed budget expenditure model, we have retrospectively looked at Traffic's annual budget in respect of Moving Traffic Enforcement income, to determine if any surplus has been generated and particularly if that has then been used to support the return to the centre which Traffic have been undertaking since 2017/18.

We can confirm that there wasn't any significant surplus created related to Moving Traffic Enforcement, when legitimate expenditure was correctly applied, for the period of 2017/18 to 2020/21.

However, following the COVID19 pandemic, changes to traffic patterns and the introduction of some additional CCTV Traffic Enforcement cameras, 2021/22 saw a significant increase in the income generated. It was at this point that working

with our finance colleagues, we agreed to introduce a ring-fenced reserve to place this surplus income and allow for it to be used appropriately in accordance with the regulations.

Governance arrangements are currently being developed to manage this reserve to support a programme of Traffic Management and Road Safety initiatives.

c) Inappropriate use of the Moving Traffic Enforcement income to support the Council's MTFP.

Legislation and the supporting regulations clearly state that the Moving Traffic Enforcement and Civil Parking Enforcement income cannot be used to benefit the Council's overall budget position.

If there are increases in legitimate expenditure, then an appropriate adjustment to the budget should be done to reflect that change.

No proposal, in relation to Moving Traffic Enforcement income, has been put forward as part of this year's submission to support the MTFP savings/income target.

d) Producing detailed accounts, together with Civil Parking Enforcements activities, and submitting them to the DfT.

We currently produce an annual review of Moving Traffic Enforcement contraventions and income, together with our Civil Parking Enforcement data.

Following the ongoing transformation of services across the area of Parking, Traffic and Enforcement, we will be working with our finance colleagues to see how we can improve the reporting of accounts related to income from these areas.

3. LEGISLATION

Traffic Management Act 2004: statutory guidance for local authorities outside London on civil enforcement of bus lane and moving traffic contraventions.

Financial objectives

For good governance, enforcement authorities need to forecast revenue in advance. But raising revenue should not be an objective of civil enforcement of bus lane or moving traffic contraventions, nor should authorities set targets for revenue or the number of PCNs they issue.

Enforcement authorities should run their enforcement operations efficiently, effectively, and economically. The purpose of penalty charges is to dissuade motorists from breaking traffic restrictions.

The objective of civil enforcement should be for 100% compliance, with no penalty charges.

Penalty charges should be proportionate, so authorities should not set them at unreasonable levels.

The surplus income from any penalty charge payments received from bus lane or moving traffic enforcement must only be used in accordance with regulations.

Any surplus arising from bus lane or moving traffic enforcement must be applied for all or any of the following:

- the making good to the local authority's general fund of any amount charged to that fund in respect of any deficit arising from its bus lane or moving traffic enforcement, in the 4 years preceding the financial year in question.
- for environmental improvement in the enforcement authority's area in accordance with Section 1(2) and 1(3) Pollution Prevention and Control Act 1999
- meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services
- for highway improvement projects in the local authority's area in accordance with Section 55, Paragraph (4A) Road Traffic Regulation Act 1984

English local authorities outside London must keep an account of all income and expenditure in respect of their functions as an enforcement authority for bus lane and moving traffic contraventions.

Local authority civil enforcement should be self-financing as soon as practicable; but compliant applications for civil enforcement of bus lane or moving traffic contraventions will be granted without the scheme being self-financing. However, authorities will need to bear in mind that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding. The Secretary of State will not expect either national or local taxpayers to meet any deficit.

The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022:

Section 28: Income and expenditure in connection with OGL bus lane contraventions.

- (1) An enforcement authority must keep —
 - (a) an account of their income and expenditure, on or after the commencement date, in connection with any functions which the authority has in connection with existing contraventions under the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005(31), in consequence of article 3 of the Traffic Management Act 2004 (Commencement No.10 and Savings and Transitional Provisions) (England) Order 2022(32), and
 - (b) an account of their income and expenditure in connection with their functions under Part 6 of the TMA 2004 in relation to OGL bus lane contraventions.
- (2) As soon as reasonably practicable after the end of each financial year, the authority must forward to the Secretary of State a copy of the account for that year.
- (3) At the end of each financial year, any deficit in the account must be made good out of the authority's general fund.

Section 29: Income and expenditure in connection with OGL moving traffic contraventions.

- (1) An enforcement authority must keep an account of their income and expenditure in connection with their functions under Part 6 of the TMA 2004 in relation to OGL moving traffic contraventions.

- (2) At the end of each financial year, any deficit in the account must be made good out of the authority's general fund.

Section 30: Surpluses to be carried forward

- (1) Where, immediately before the coming into force of these Regulations there is a surplus on an account kept under regulation 36 of the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005, the surplus on that account is to be carried forward.
- (2) Any surplus carried forward under paragraph (1) is to be treated as a surplus arising in an account kept under regulation 28.

Section 31: Use of surpluses

- (1) Any surplus arising in an account kept by an enforcement authority under regulation 28 or 29 -
 - (a) must be applied for all or any of the purposes specified in paragraph (2), and
 - (b) insofar as it is not so applied, must be appropriated to the carrying out of some specific project falling within those purposes and carried forward until applied to that project.
- (2) The purposes are -
 - (a) the making good to the enforcement authority's general fund of any amount charged to that fund under regulation 28(3) or 29(2) in respect of any deficit in the four years preceding the financial year in question,
 - (b) the purposes of environmental improvement in the enforcement authority's area,
 - (c) meeting costs incurred, whether by the enforcement authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services,
 - (d) the purposes of a highway improvement project in the enforcement authority's area.
- (3) For the purposes of paragraph (2)(b) "environmental improvement" includes -
 - (a) the reduction of environmental pollution as defined in the Pollution Prevention and Control Act 1999(33) (see section 1(2) and (3) of that Act).
 - (b) improving or maintaining the appearance or amenity of—
 - (i) a road or land in the vicinity of a road, or
 - (ii) open land or water to which the general public has access,
 - (c) the provision of outdoor recreational facilities available to the public without charge.
- (4) For the purposes of paragraph (2)(d) "a highway improvement project" means a project connected with the carrying out by the appropriate highway authority of any operation which constitutes the improvement (within the meaning of the Highways Act 1980(34)) of a highway in the area of a local authority in England.

3. USE OF SURPLUS INCOME (Governance / Funding Process)

It is essential that appropriate governance arrangements are in place to ensure the efficient and effective use of the MTE Surplus Income, ensuring compliance with both DfT legislative requirements and the authorities own 'Best Value' objectives.

Moving Traffic Enforcement (MTE) Surplus Income – Governance Board

The role of the MTE Surplus Income Governance Board will be to review submissions for funding from the reserve, ensuring compliance with guidelines set out in the associated legislation and regulations, with a focus on delivering Road Safety, Traffic Management and Public Transport policies, strategies and objectives.

The main aims / responsibilities of the Board:

- Monitor / Review annual ring-fenced reserve account, ensuring a minimum 20% surplus income is retained for a four-year period.
- Review end of year fiscal position statement from MTE budget / accounts, to agree actual surplus (if any) to be placed in the ring-fenced reserve.
- Develop / Agree a set of priority outcome measures in line with Road Safety, Traffic Management and Public Transport policies, strategies, and objectives.
- Consider funding requests from different project teams, including:
 - Outcomes / Objectives align with those set out by the MTE Surplus Income Governance Board.
 - Projects Viability – feasibility, design, and costings.
- Review committed / completed projects funded by the reserves. (Best Value)
- Review / monitor progress against Scheme Project Plan
- Agree actions for board members and project teams.
- Approve end of year fiscal position statement of the ring-fenced reserve account.

Formal Submissions / Applications for Funding

A formal submission, using the agreed 'MTE Surplus Funding Application' form will be required before any funding can be allocated to support the delivery of highway / environmental improvement projects or other appropriate Public Transport operational activities.

Financial / Technical Assessment (Stage 1 – Application Compliance Review)

The formal submission / application will be subject to a full financial and technical assessment to determine whether it is compliant with the aforementioned legislation and meets with the specific priorities identified in this document.

Financial / Technical Assessment (Stage 2 – Shortlisting (Policy Priorities))

Following Stage 1 - Application Compliance Review, the Financial / Technical Assessment panel will undertake a shortlisting exercise based on the Funding Priority List and the available funding for that particular fiscal period.

Governance Board Assessment (Stage 3 – Application – Board Approval)

Following the Stage 2 -Shortlisting, the funding proposal will be presented to the Governance Board for formal approval, rejection or returning to Stage 2 for changes to the proposal or additional supporting information.

Governance Board Review (Stage 4 – Post Project Review)

To help facilitate the production of the annual report and support the wider 'Best Value' agenda, there will be a requirement for a post project review to help with future funding allocations, lessons learnt, establish best practice, etc.

4. FUNDING PRIORITIES

The aforementioned legislation sets out the framework for the appropriate use of any surplus income generated from Moving Traffic Enforcement.

However, to support the application process, it is essential to recognise the Authority has an agreed priority list to ensure funding is utilised efficiently and effectively.

The Funding Priority List is ranked below (1-Highest to 7-Lowest):

- 1) Retention of the Surplus to ensure funds available to cover any future operational MTE budget deficit.
- 2) Improvement / Investment in the MTE infrastructure and operational equipment.
- 3) Implementation of new MTE locations.
- 4) Implementation of evidence-based Road Safety and Traffic Management highway improvement projects.
- 5) Provision or operation of, or of facilities for, public passenger transport services.
- 6) Highway improvement projects in the enforcement authority's area (as defined in Section 28(4) above)
- 7) Environmental improvement in the enforcement authority's area (as defined in Section 31(3) above)

5. ANNUAL REPORT

A full financial report of the MTE Ring-fenced Reserve will be produced annually, detailing the initial balance, any additional surplus income received, outgoing funding, projects supported, etc.

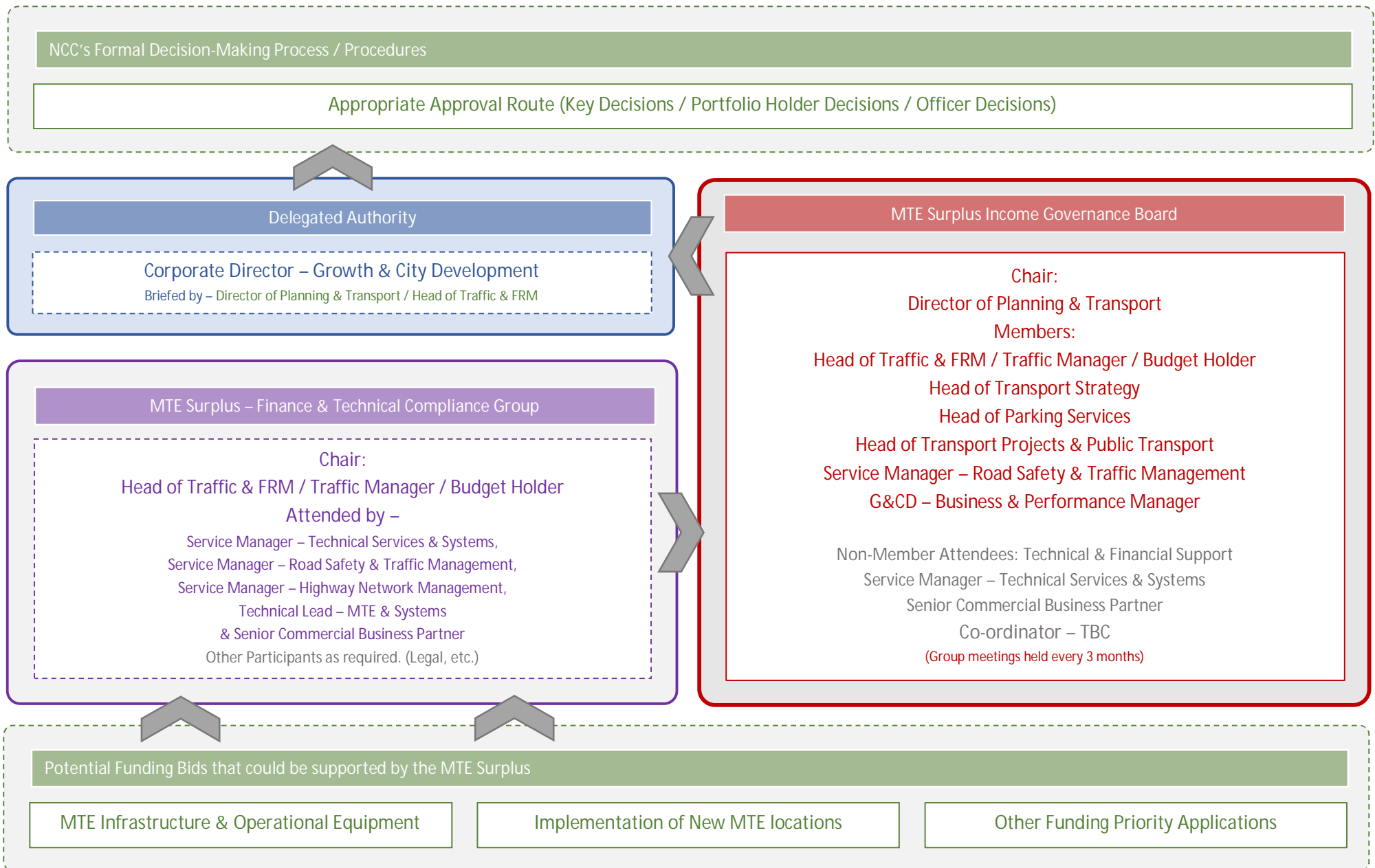
Appendix A

Moving Traffic Enforcement (MTE) Surplus Income

Governance Board Structure

(including: Traffic & Flood Risk Management – Project Governance Process)

MTE Surplus Income Governance Board / Traffic Team – Governance Process



Appendix B

**Moving Traffic Enforcement (MTE)
Surplus Income – Governance Board**

Terms of Reference

Terms of Reference

TITLE:	Moving Traffic Enforcement (MTE) – Surplus Income – Governance Board
CORPORATE DIRECTOR	Sajeeda Rose
HEAD OF SERVICE	Mark Jenkins – Head of Traffic & Flood Risk Management
AUTHOR	Mark Jenkins
DATE / VERSION	20th December 2023 / V1.05

BACKGROUND / HISTORY

A review of NCC's CCTV Traffic Enforcement (now Moving Traffic Enforcement) financial administration has been undertaken recently and highlighted the need to make some significant changes to comply with the relevant legislation and regulations.

One of these changes included the introduction of a ring-fenced reserve for any surplus that is generated from the CCTV Traffic / MTE, together with the appropriate governance arrangements to ensure that the funds are used in accordance with the guidance set out in:

- **Traffic Management Act 2004: statutory guidance for local authorities outside London on civil enforcement of bus lane and moving traffic contraventions.**
- **The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022.**

PURPOSE

The role of the **MTE Surplus Income Governance Board** will be to review submissions for funding from the reserve, ensuring compliance with guidelines set out in the associated legislation and regulations, with a focus on delivering Road Safety, Traffic Management and Public Transport policies, strategies and objectives.

The board is to be established by 1st March 2024 and was commissioned by Head of Traffic & FRM

The main aims / responsibilities of the Board:

- Monitor / Review annual ring-fenced reserve account, ensuring a minimum 20% surplus income is retained for a four-year period.
- Review end of year fiscal position statement from MTE budget / accounts, to agree actual surplus (if any) to be placed in the ring-fenced reserve.
- Develop / Agree a set of priority outcome measures in line with Road Safety, Traffic Management and Public Transport policies, strategies and objectives.
- Consider funding requests from different project teams, including:
 - Outcomes / Objectives align with those set out by the **MTE Surplus Income Governance Board**.
 - Projects Viability – feasibility, design and costings.
- Review committed / completed projects funded by the reserves. (Best Value)
- Review / monitor progress against Scheme Project Plan
- Agree actions for board members and project teams.
- Approve end of year fiscal position statement of the ring-fenced reserve account.

TERM / DURATION

The Terms of Reference for the **MTE Surplus Income Governance Board** is effective from **1st March 2024** and will be ongoing until terminated by agreement between the board members.

MEMBERSHIP

The **MTE Surplus Income Governance Board** will comprise of:

Group Member
Director of Planning & Transport
Head of Traffic & FRM / Traffic Manager / Budget Holder
Head of Transport Strategy
Head of Parking Services
Head of Transport Projects and Public Transport
Service Manager – Road Safety & Traffic Management
G&CD – Business & Performance Manager
Non-Member - Technical & Financial Support
Service Manager – Technical Services & Systems
Senior Commercial Business Partner (Growth & City Development)

Traffic

ACCOUNTABILITY

The **MTE Surplus Income Governance Board** is accountable for:

- Fostering collaboration between the various compliance and project groups.
- Removing obstacles to the Groups successful delivery and implementation of the various projects.
- Maintaining at all times the focus of the Board on the agreed scope, outcomes and benefits
- Monitoring and managing the factors outside the Board's control that are critical to its success.

The Chair is responsible for updating / informing the Corporate Director / Portfolio Holder / Leader on activities / progress of the board.

The membership of the **MTE Surplus Income Governance Board** will commit to:

- Attending all scheduled **MTE Surplus Income Governance Board** meetings.
- Wholeheartedly championing the board within and outside of work areas.
- Sharing all communications and information across all **MTE Surplus Income Governance Board** members.
- Making timely decisions and taking action so as to not hold up any associated projects.
- Notifying members of the **MTE Surplus Income Governance Board**, as soon as practical, if any matter arises which may be deemed to affect the development of the board.
- Attending all meetings and if necessary, nominate a proxy.

Members of the **MTE Surplus Income Governance Board** will expect:

- that each member will be provided with complete, accurate and meaningful information in a timely manner.
- to be given reasonable time to make key decisions.
- to be alerted to potential risks and issues that could impact the project, as they arise
- open and honest discussions, without resort to any misleading assertions.

- ongoing 'health checks' to verify the overall status and 'health' of the network.

Functions (Project Funding Related)

Reserve - Financial Overview	Assess Funding Proposals
Annual Financial Review / Report	Review / Monitor Project Progress
Processes Procedures and Systems	Problem Solving / Resolution
Communications	Risk Management
Escalation	

MEETINGS / REVIEW

- All meetings will be chaired by Paul Seddon (Director of Planning & Transport)
- A meeting quorum will be 5 members of the **MTE Surplus Income Governance Board**.
- Decisions made by consensus (i.e. members are satisfied with the decision even though it may not be their first choice). If not possible, **MTE Surplus Income Governance Board** chair makes final decision.
- Meeting agendas / action log will be provided by (TBC), this includes:
 - preparing agendas and supporting papers
 - preparing action log and information.
- Meetings will be every 3 months at Loxley House. Continuation of the Board and frequency of meetings to be reviewed every 6 months.
- If required, subgroup meetings will be arranged outside of these times at a time convenient to subgroup members.

Administration

Meetings will be held quarterly, unless required sooner.	Paul Seddon is currently nominated Chair of the meeting.
Decisions will be made by consensus or escalated as agreed.	Review the aims of the MTE Surplus Income Governance Board on regular basis.
Agenda will be provided at or ahead of the meeting.	Action Log' will be produced to record and capture tasks.
Attendees are encouraged to raise concerns & risks.	Hold open and honest discussions and respect other Board member opinions.

AMENDMENT, MODIFICATION or VARIATION

This Terms of Reference may be amended, varied or modified in writing after consultation and agreement by **MTE Surplus Income Governance Board**.

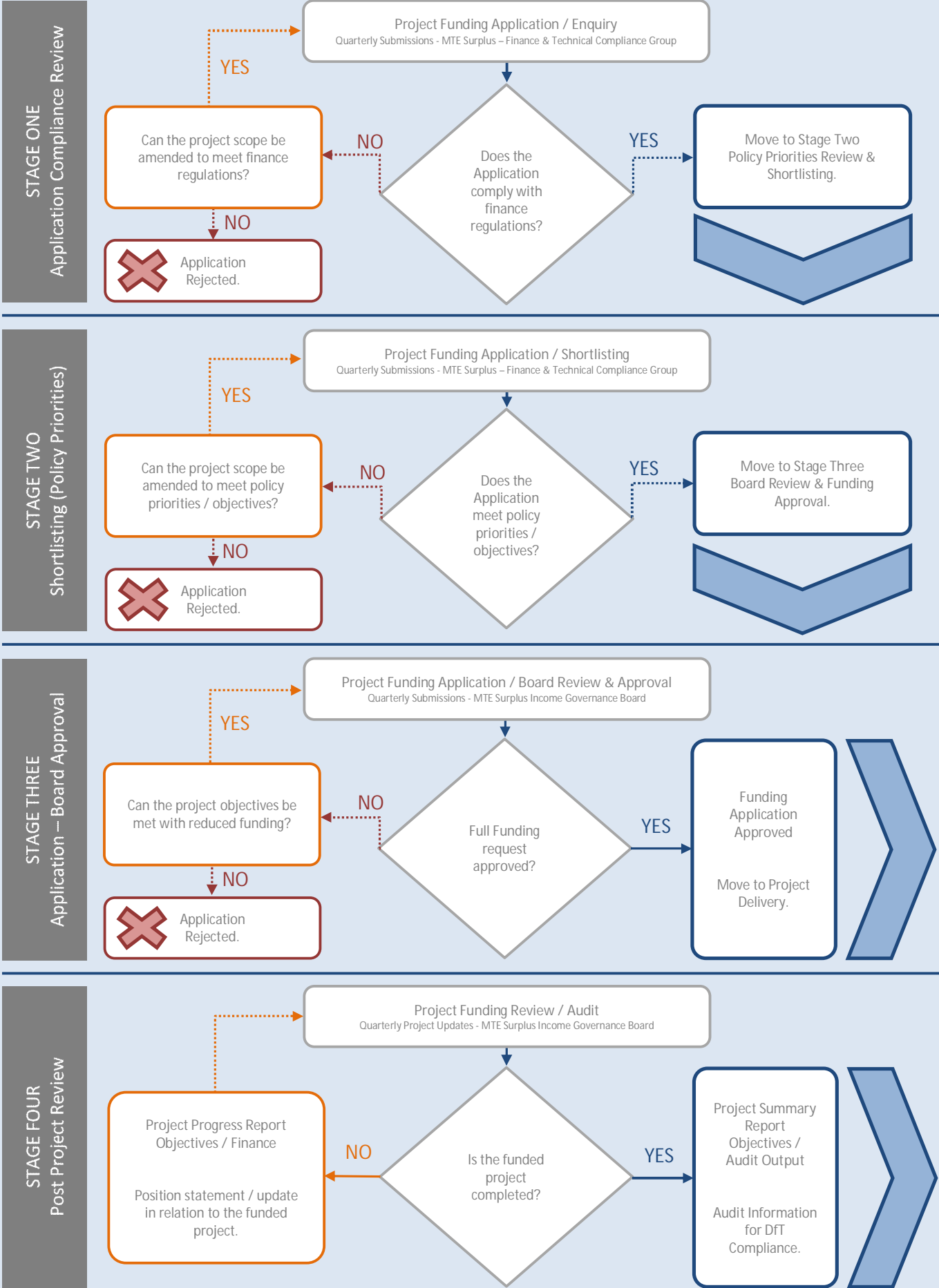
Appendix C

Moving Traffic Enforcement (MTE) Surplus Income

Project Funding Approval Process

(Flow Diagram)

MTE Surplus – Project Funding Approval Process



Appendix D

**Moving Traffic Enforcement (MTE)
Surplus Income**

Project Funding Application Form

(Template)

Insert Application Form

Approvals			
Approved by	Position	Signed	Date
Councillor Angela Kandola	Portfolio Holder for Highways, Transport & Planning		00/00/2023
EIA – Rosey Donovan	Equality & Employment Team	✓	17/04/2023

Version History

Version	Status	Author	Reason for Issue	Date
1	Draft	M. Lethbridge S. Thorpe S. Harrison M Jenkins	Draft Policy	11/04/2023
2	Final	M. Lethbridge S. Thorpe S. Harrison M Jenkins	Final Agreed Policy	00/00/2023
3				