

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2078

### Title: EMISSIONS SURCHARGE

#### Executive Summary:

This Decision Form concerns the Mayor's proposals for an Emissions Surcharge ("the ES", often referred to as the "Toxicity-Charge" or "T-Charge") of £10 to be paid to drive older, more polluting vehicles into central London on top of the Congestion Charge (CC). The Surcharge is to discourage the use of these vehicles prior to the introduction of the Ultra Low Emission Zone (ULEZ) and its related vehicle emission standards in September 2020, and so act as a precursor to that initiative. It is proposed that the ES would take effect from 23 October 2017 for all vehicles, not subject to an exemption or discount. TfL has consulted on an "Emissions Surcharge Variation Order" to make changes to the current CC Scheme Order to implement the ES. The consultation took place between 10 October and 18 December 2016. It also included a number of consultation suggestions about the future of the ULEZ in terms of potentially bringing its start date forward and/or expanding its scope. TfL has analysed the responses and presented them in a Report for the Mayor's consideration, with recommendations. This Mayoral Decision asks the Mayor to decide whether or not to confirm (with or without modifications) the Emissions Surcharge Variation Order and to indicate how to proceed with development of the consultation suggestions concerning the ULEZ's future.

#### Decision:

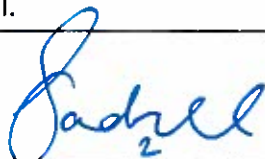
That the Mayor:

- 1) Having considered the responses to the ES consultation proposals, including in particular those relating to the contents of the ES Variation Order (at Appendix A) and having regard to and taking into account the following: the Integrated Impact Assessment prepared in relation to the published ES proposals (contained within the Consultation and Information Document, which forms part of Appendix B); the Variation Order; and TfL's Report following consultation with the public and stakeholders, contained at Appendix B, which includes TfL's consideration of the responses to the consultation, recommendations as to modifications to the Variation Order and in respect of the wider ULEZ consultation suggestions; and responses (if any) that were received after TfL completed its report, and which have been provided to the Mayor;
- 2) Having considered the content of, and advice given in, this Form in particular, regarding the various matters for decision, including whether further information is required before making a decision and whether further consultation, or the holding of any inquiry, public or otherwise, is necessary or appropriate before making a decision; and
- 3) Being satisfied regarding these and other relevant matters:
  - a. Confirms the Greater London (Central Zone) Congestion Charging (Variation) Order 2016 with the modifications recommended by TfL in response to the consultation;
  - b. Requests TfL to proceed with work to develop, and undertake additional consultation and engagement with relevant stakeholders on, the suggested changes to the ULEZ raised in the Stage 2 consultation.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority. The above request has my approval.

Signature:



Date:

16/2/17.

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

##### Introduction

London suffers from poor air quality and in some areas it exceeds legal limits on concentrations of Nitrogen Dioxide (NO<sub>2</sub>). This Form concerns the second stage (Stage 2) of consultation that took place between 10 October and 18 December 2016 on further intervention to help address the situation, which is part of series of consultations on the Mayor's proposals to tackle London's poor air quality.

- The consultation concerned the Mayor's proposals for the introduction of an Emissions Surcharge (ES) for older more polluting vehicles entering central London, as a precursor to the introduction of the Ultra Low Emission Zone (ULEZ) and its emission standards in September 2020.
- Additionally, the consultation also covered high-level ideas or suggestions that the start of the ULEZ be brought forward and/or that it might be expanded in the future: to Outer London for heavy vehicles (Heavy Goods Vehicles (HGVs), buses and coaches) and to Inner London for other vehicles.

The Consultation and Information Document ("the C&I Document", included as part of Appendix B) published by TfL on 10 October 2016, contained detailed information on the proposals for, and impacts of, the ES as well as a variation order ("the Variation Order"<sup>1</sup> at Appendix A) made by TfL to make the necessary changes to the Congestion Charge (CC) Scheme Order to implement that proposal. The C&I Document also included very high-level broad ideas concerning the ULEZ's future development. The C&I Document contained an integrated impact assessment (IIA) of the likely significant impacts if the ES proposal was implemented, together with some high level information about the ULEZ consultation suggestions. TfL has analysed the consultation responses received, and other public and stakeholder engagement, and prepared a report for the Mayor's consideration ("the Report to the Mayor" or "RTM", attached as Appendix B).

The purpose of this Form is to enable the Mayor to decide whether or not to confirm the Variation Order (with or without modification) and, depending on consultation feedback, whether to ask TfL to develop the suggestions concerning the ULEZ's future into detailed proposals for public and stakeholders later in 2017. This Form should be read in conjunction with the C&I Document and the RTM at Appendix B.

##### Background

The objective of the Mayor's proposals is to significantly improve air quality in London in particular with regard to NO<sub>2</sub> and Particulate matter (PM). Both NO<sub>2</sub> and PM have an adverse effect on human health. At high concentrations, NO<sub>2</sub> causes inflammation of the airways. Long-term exposure is associated with an increase in symptoms of bronchitis in asthmatic children and reduced lung function growth. Long term exposure to PM contributes to the risk of developing cardiovascular and respiratory diseases, as well as of lung cancer. Research shows that particles with a diameter of ten microns and smaller (PM<sub>10</sub>) are likely to be inhaled deep into the respiratory tract. The health impacts of particles with a diameter of two-and-a-half microns and smaller (PM<sub>2.5</sub>) are especially significant, as smaller particles can penetrate even deeper. Significant improvements have been made over recent years and London is now broadly compliant with European Union (EU) legal limits ("limit values") for PM, however, ongoing reductions are needed (especially for PM<sub>2.5</sub>) to further protect (or improve) human health. It is estimated that road transport will be responsible for 38 per cent of NO<sub>x</sub> and 22 per cent of PM<sub>10</sub> emissions in London in 2020 (if no further intervention is made).

The extent of the negative effects of air pollution on health depends on an individual's level of exposure and other conditions they may be vulnerable to, or suffering from. Knowledge in this area is continually

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<sup>1</sup> The Greater London (Central Zone) Congestion Charging (Variation) Order 2016.

increasing as research progresses. As the C&I Document sets out, air pollution is one of the most significant challenges facing the Capital, with the equivalent of up to 9,400 deaths a year attributed to air quality related illnesses. A baby born in London in 2010, who was exposed to 2010 air quality levels for its entire life, would see its life expectancy reduced by 2.2 years (if male) and two years (if female). In addition to the long-term impacts, NO<sub>2</sub> is proven to have a dramatic effect on the development and function of the lungs in the young. A six-year study found that children living in highly polluted parts of London have up to 10 per cent less lung capacity than normal.<sup>2</sup> Air pollution also causes birth defects. A 2013 study in California showed that, for women with the highest NO<sub>2</sub> exposure, the risk of having a pregnancy affected by anencephaly (where babies are born missing part of the brain and skull), was nearly three times greater than for women with the lowest exposure.<sup>3</sup> Further information about their health impacts is contained at chapter one of the C&I Document.

London's air quality has improved significantly in recent years and is now considered compliant for all but one air pollutant for which limit values are set: NO<sub>2</sub>. The exhaust emission that gives rise to NO<sub>2</sub> is Oxides of Nitrogen (NO<sub>x</sub>), which is made up of both Nitrogen Oxide (NO) and Nitrogen Dioxide (NO<sub>2</sub>). The NO forms additional NO<sub>2</sub> by reacting with Ozone (O<sub>3</sub>) in the atmosphere. Emissions from road transport are a major contributor to poor air quality in London. In 2013, they accounted for 50 per cent of all NO<sub>x</sub> sources in London<sup>4</sup>. All vehicles contribute to poor air quality, but the magnitude of this contribution varies by vehicle type, the fuel used and the mileage travelled. Another consideration is the number of vehicles in use. For example, cars emit less per vehicle than HGVs, but are much more numerous. Diesel cars, TfL buses and taxis are significant contributors to NO<sub>x</sub> emissions. This is explained by their high mileage in central London and their use of diesel engines, which have higher NO<sub>x</sub> emissions than petrol equivalents.

Analysis carried out on behalf of the GLA and published in 2016<sup>5</sup> shows the health effects of air pollution are seen disproportionately in the most vulnerable and deprived communities. Among the top 10 per cent of London's most deprived areas, half have NO<sub>2</sub> levels exceeding legal limits. For the 10 per cent least deprived areas, only one per cent experience illegal NO<sub>2</sub> concentrations.

Therefore, although the Mayor has a duty to help achieve the legal limits for air pollutants in Greater London, poor air quality should be tackled not simply for environmental reasons, but also for its public health benefits, and as a social justice issue for vulnerable people, particularly given the high number of schools, hospitals and care homes in areas most affected by air pollution.

### Legal limits and London's Air Quality

The Air Quality (Standards) Regulations 2010 set legal limits (called 'limit values') for concentrations of pollutants in outdoor air. These are based on European Union (EU) directives<sup>6</sup>, which will remain in force regardless of the UK leaving the EU because they now exist in regulations, unless those regulations are specifically repealed. Table 2 in the C&I Document summarises the limit values for NO<sub>2</sub> and PM (PM<sub>2.5</sub> and PM<sub>10</sub>) and whether compliance has been achieved in London. The Department for Environment, Food and Rural Affairs (Defra) has reported PM compliance limits for 2015 across England and Wales, with most 'non-reportable' sites<sup>7</sup> in London falling below the legal limits. However, there are no safe limits for PM<sub>2.5</sub> which is more damaging to health than PM<sub>10</sub>. Health evidence suggests that further emissions reductions, will bring about improvements in health for Londoners. Without further action, there is the prospect of PM<sub>2.5</sub> emissions increasing if traffic levels rise. Crucially, large sections of the Capital continue to exceed both the

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<sup>2</sup> [sro.sussex.ac.uk/56496/](http://sro.sussex.ac.uk/56496/)

<sup>3</sup> [med.stanford.edu/news/all-news/2013/03/air-pollutants-linked-to-higher-risk-of-birth-defects-researchers-find.html](http://med.stanford.edu/news/all-news/2013/03/air-pollutants-linked-to-higher-risk-of-birth-defects-researchers-find.html)

<sup>4</sup> London Atmospheric Emissions Inventory (LAEI) 2013

<sup>5</sup> [www.london.gov.uk/WHAT-WE-DO/environment/environment-publications/analysing-air-pollution-exposure-london](http://www.london.gov.uk/WHAT-WE-DO/environment/environment-publications/analysing-air-pollution-exposure-london)

<sup>6</sup> Ambient Air Quality Directive (2008/50/EC) and Directive 2004/107/EC

<sup>7</sup> 'Non-reportable sites' are air quality monitoring sites that are not part of the official monitoring used to determine compliance with legal limits values for air pollution

annual mean and hourly legal limits for NO<sub>2</sub> and this is likely to continue beyond 2020, so more action needs to be taken.

London is now broadly compliant with legal limits for PM. However, further reductions are needed (especially to PM<sub>2.5</sub> levels) to protect human health. Annual average PM<sub>10</sub> concentrations are considered within the legal limits, however modelling (Figure 2 in the C&I Document) still predicts some hotspot locations where the daily average value for PM<sub>10</sub> is exceeded (for example kerbside at some junctions in central London, or within the road space itself). Annual mean concentrations of PM<sub>2.5</sub> are also well within the legal limit value of 25ug/m<sup>3</sup>. Although compliance has officially been achieved, by reducing PM concentrations even more, the health benefits will be even greater. In contrast, annual average NO<sub>2</sub> concentrations still exceed the legal limit across much of inner London, as well as in the vicinity of Heathrow and near major roads in outer London see (Figure 1 in the C&I Document). Meeting the NO<sub>2</sub> limit poses a huge challenge for many cities in the UK and across Europe. One of the key reasons why ambient levels of NO<sub>2</sub> remain higher than had been previously expected is driving conditions in urban areas, and concerns over the performance of the more recent Euro emissions standard for some diesel vehicles. In general, Euro standards have failed to reduce oxides of nitrogen (NO<sub>x</sub>)<sup>8</sup> emissions from light duty diesel vehicles (eg cars and vans), despite tightening emission standards for NO<sub>x</sub>. However, Euro VI (for heavy vehicles) is performing well and the standard for light vehicles is still bringing about a significant reduction, albeit not as much as it should.

The Capital's air quality is expected to improve by 2020, although further and more urgent action is required (see Figure 1 in the C&I Document). Emissions from all sources are projected to decrease thanks to technological advances in vehicle design, as well as policies and legislation already in place to reduce emissions across London, the UK and Europe. Specifically, the roll out of a new emission standard for vehicles (eg Euro 6/VI) is anticipated to be more successful at reducing pollutants in urban driving conditions. Although it is expected that PM emissions will remain within legal limits, levels of NO<sub>2</sub> will continue to exceed these limits in some areas, even with the ULEZ in place.

Further PM<sub>10</sub> and PM<sub>2.5</sub> reductions by 2020 will mean that annual average concentrations should remain below the legal limits. However, there is a strong case to continue cutting PM concentrations to ensure health benefits, and a compelling need to accelerate the pace of change to achieve this even sooner. The proportion of the Capital where annual average NO<sub>2</sub> concentrations exceed the legal limit is also expected to decrease by 2020, in part due to the introduction of the currently agreed ULEZ. However, modelling indicates that, if nothing further is done, concentrations will continue to exceed the limit in central and inner London, in the vicinity of Heathrow Airport and near construction sites and major roads in outer London.

The Government produced a revised NO<sub>2</sub> action plan in late 2015 in response to a UK Supreme Court ruling<sup>9</sup>. This brought forward the projected date of compliance with legal air pollution limits to 2025 (from after 2030) in the Capital and to 2020 in the rest of the UK. It includes a framework for Clean Air Zones to be implemented in several UK cities, including London. This plan was subject to a legal challenge on the grounds that compliance with legal limits for NO<sub>2</sub> can be achieved earlier, and that the Government has not taken all reasonable steps to ensure this. The High Court ruled in December 2016 that the plan was unlawful in that it did not seek to address the infraction quickly enough. It ordered the Government to re-consult on a new plan by April 2017 and to finalise it, for submission to the European Commission, by July 2017.

Irrespective of this case, the Mayor does not believe it is appropriate to wait until 2025 to reach compliance. Strong measures in the Capital, as proposed within this consultation, and decisive action at national

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<sup>8</sup> Vehicle emissions are measured in terms of total NO<sub>x</sub>. NO<sub>x</sub> is made up of nitrogen oxide (NO) and NO<sub>2</sub>, although the NO is subsequently converted into additional NO<sub>2</sub> by interaction with ozone in the atmosphere – this reaction being dependent on the availability of ozone

<sup>9</sup> [www.supremecourt.uk/cases/uksc-2012-0179.html](http://www.supremecourt.uk/cases/uksc-2012-0179.html)

government level is needed to further reduce exposure in areas that are currently compliant, so as to realise the health benefits as soon as possible.

## 2. Summary of proposals

This section provides a summary of the ES proposals and other ULEZ consultation suggestions, which are described in more detail in the RTM and C&I Document, attached as Appendix B.

### Emissions Surcharge proposals

This proposal involves changes to the Congestion Charging scheme. The ES will require all vehicles driving in the Congestion Charge Zone to meet new exhaust emissions standards (ES standards) or pay a daily charge of £10 in addition to the Congestion Charge. As originally proposed the ES would come into effect from 23 October 2017 and end when the ULEZ in central London starts (except for residents, who would continue to pay a discounted ES until their 3 year 100 per cent 'sunset period' discount for the ULEZ ends). The ES would apply during congestion charging hours (Monday-Friday 7am – 6pm, excluding bank holidays and the period between Christmas and New Year).

### ES discounts and exemptions

These are generally in line with those available for the Low Emission Zone and Congestion Charge and are as follows:

Two-wheeled motorbikes (and sidecars) and mopeds	Exempt
Emergency service vehicles, such as ambulances and fire engines	Exempt
NHS vehicles that are exempt from VED	Exempt
Vehicles used by disabled people that have a disabled taxation class, eg Dial-a-Ride and modified vehicles	Exempt
Specialist off-road vehicles, eg tractors and mobile cranes	Exempt
Vehicles with a historic tax class (40 years and older)	Exempt
Commercial vehicles constructed before 1973	Exempt
Taxis	Exempt
Ministry of Defence vehicles	Exempt
Private hire vehicles	Exempt
Specially constructed or modified Showmans vehicles	100% discount
Accredited breakdown vehicles	100% discount
Roadside recovery vehicles	100% discount
Blue Badge holders	100% discount
Motor tricycles one metre or less wide, and two metres or less long	100% discount
Residents living in the Congestion Charging zone or in a designated area next to the zone	90% discount

### ES emission standard

Vehicles would need to meet the equivalent Euro 4/IV NOx and PM standards, or Euro 3 for eligible L-category vehicles, as listed in the table below:

Vehicle type (includes hybrid vehicles)	Minimum emission standards	Date from which manufacturers must register new vehicles meeting the new emission standards (usually a year earlier for new vehicle models)
Category L – Quadricycle or motorised tricycle	Euro 3	From 1 July 2007
Car and small van - Category M1 and N1 (I)	Euro 4	From 1 January 2006
Large van and minibus - Category N1 (II and III) and M2	Euro 4	From 1 January 2007
HGV - Category N2 and N3	Euro IV	From 1 October 2006
Bus/coach - Category M3	Euro IV	From 1 October 2006

### **ULEZ Consultation Suggestions**

No formal proposals for changes to the ULEZ were put forward during the consultation, although it did contain high level suggestions for improvements to the ULEZ to gauge public response.

The ULEZ-related consultation suggestions were as follows:

- Bringing forward the implementation of ULEZ in central London from its previously agreed date of September 2020 to 2019
- Expanding the ULEZ for HGVs, Coaches and Buses and other Heavy vehicles Londonwide (out to the LEZ boundary) in a range of possible years from 2019 to after 2021
- Expanding the ULEZ for all vehicles up to the North and South Circular in a range of possible years from 2019 to after 2021

No changes to the already approved ULEZ standards, hours of operation or discounts and exemptions were suggested within the consultation. The principle of a lower level charge for cars, vans and motorcycles was suggested and a question about this was asked in the consultation document.

No changes to the other aspects of the ULEZ proposal around Taxis (exempt) and PHVs (included) were raised in the consultation.

### **3. Consultation process and summary of responses**

This consultation was the second stage of an ongoing series of consultations on proposals to improve air quality. In the summer of 2016, the Mayor undertook the first stage of consultation on a number of initiatives to improve the quality of the air and the health of Londoners. The Stage 2 Consultation commenced on Monday 10 October 2016 and closed on Sunday 18 December 2016. This consultation satisfied the legal requirement in the Greater London Authority Act 1999 (“GLA Act”, as amended) that TfL consult on its proposed changes to the Congestion Charge Scheme Order (as set out in the Variation Order). TfL used a variety of channels to raise awareness of the consultation. These are described in the RTM attached at Appendix C and summarised below.

A marketing campaign was developed to raise awareness of the Air Quality consultation and encourage customers to have their say:

- A press release was issued on 10 October to announce the start of the consultation. The consultation received media coverage from a number of outlets;

- Press adverts were featured in a variety of London media titles including Evening Standard, Metro and City AM. Adverts were also featured in a trade press and digital display supported the length of the consultation;
- A notice was also published in the London Gazette;
- Social media activity included tweets that were sent from the @TfL Twitter feed throughout the consultation period;
- Detailed information about the scheme, supporting documents and an online questionnaire were available on TfL's consultation portal website at [tfl.gov.uk/airquality-consultation](http://tfl.gov.uk/airquality-consultation) and this was signposted with banners throughout the TfL website;
- A radio advertisement notifying listeners of the Air Quality consultation ran for 5 weeks.

#### Targeted communications to registered Congestion Charge and other TfL customers

On 12 October, TfL sent an email to relevant registered Congestion Charging scheme customers using a customer relationship management system. Around 800,000 customers were emailed on two occasions (October and December). A reminder email was sent on 2 December.

TfL engaged with stakeholders both in developing the proposals (prior to consultation) and during the consultation itself. TfL also met with a wide range of stakeholders through private briefings, workshops and third party events.

The Mayor first announced his intention to introduce an ES and to consider both accelerating and expanding the ULEZ in June 2016. An online public survey was launched in July to gather feedback on these policies as well as a range of other policies. TfL supported this with an email to over 500 stakeholders promoting the survey.

Between the launch of the survey in July and the beginning of the consultation period in October 2016, TfL met a number of stakeholders from a range of sectors to gather feedback and help further define the proposals.

A stakeholder breakfast briefing was held on 18 October 2016 as part of the consultation and was attended by 43 stakeholder organisations. Representatives of TfL and the GLA presented on the detail of the ES and other ULEZ potential proposals and also provided an opportunity to ask questions about the schemes and ideas.

The TfL online consultation portal ([www.tfl.gov.uk/airquality-consultation](http://www.tfl.gov.uk/airquality-consultation)) hosted all the relevant information relating to the consultation. This included summary information on the proposals for the ES and ULEZ-related suggestions and supporting maps, diagrams and charts. The consultation portal provided details about the proposed ES including standards, proposed operational information, charge level and location. The portal also included a link to the following documents which provided more detailed information on the proposals:

- Consultation and Information Document
- ES Variation Order
- Consolidated CC Scheme Order showing ES related amendments (in the event they were confirmed as proposed)

Respondents were requested to complete and submit an online questionnaire to provide their feedback about the proposals. It included a number of open and closed questions providing the opportunity for respondents to indicate their views about each of the proposals and ideas as well as give additional comments and feedback.

In total, 15,480 responses were received to the consultation from public and businesses. TfL offered a number of ways for respondents to comment on the consultation:

- Online – through the consultation portal
- Email – comments emailed directly to TfL
- Post – by letter or return of hard copy questionnaire

A detailed quantitative analysis of the public and business respondents is set out in chapter six of the RTM.

Throughout the consultation, TfL received a number of emails from members of the public which formed part of two separate stakeholder-led campaigns. These campaigns were led by Healthy Air and Friends of the Earth. In addition to the public and business responses TfL received 948 responses as part of the Healthy Air campaign and 13,594 responses as part of the Friends of the Earth campaign. Full details of these campaigns are set out in chapter seven of the report to the Mayor

Responses were received from 129 stakeholder organisations. Details of this are set out in chapter eight of the RTM.

Chapters 9, 10 and 11 of the RTM set out TfL's analysis of the responses received to the consultation by theme and its response to the comments, issues and recommendations contained in those responses. Comments from stakeholders and 'free text' responses from public/business consultation respondents have been attributed to the most pertinent aspect of the proposal. Within each theme, the 'issues raised' during the consultation that go to make up that theme have been identified and are listed at the start of each section, followed by TfL's response and any recommendation. Where issues are similar, these have been grouped together for a single TfL response. Comments that do not relate to a specific proposal have been addressed in 'Other'. Recommendations are addressed to the Mayor and TfL.

#### Emissions Surcharge proposals

There was generally strong support for the core ES proposals. Of the responses received, 9,850 (63 per cent) supported or strongly supported the emissions surcharge proposals. 9,056 (59 per cent) supported the proposed date of implementation and 7,056 (45 per cent) supported continuing the emissions surcharge for residents.

On the question of 9+ seater vehicles 9,873 (64 per cent) supported the inclusion of all 9+ seater vehicles with 2,132 (14 per cent) partially supporting the inclusion with exemptions for either minibuses or coaches and 1,256 (8 per cent) opposing the inclusion of any 9+ seater vehicles.

The consultation asked additional questions on discounts for historic vehicles and showman's vehicles, details of which are provided in chapter six of the RTM.

Issues raised by stakeholders in response to the ES and TfL responses are set out in chapter nine of the RTM.

In response to issues raised we noted that 9 plus seater vehicles are not currently subject to the congestion charge. Therefore, we recommend a modification to the variation order, delaying the implementation of the ES until 26 February 2018 for 9 plus seater vehicles, to upgrade the systems required to identify these vehicles.

#### ULEZ-related suggestions

The consultation asked questions about suggestions for the future of ULEZ. There was strong support for the suggestions to bring forward and expand the ULEZ.

9,760 (63%) supported or strongly supported the principle of bringing ULEZ in central London forward to 2019.

The suggestion to expand the ULEZ Londonwide for Coaches, Buses and HGVs was supported or strongly supported by 11,158 (73%) of respondents with 9,300 (60%) supporting its implementation in 2019

The suggestion to expand ULEZ up to the North and South Circular roads was supported by 9,150 (59%) of respondents with 7,917 (51%) supporting its implementation in 2019. On the charge level 6,174 (40%) supported a £12.50 charge for light duty vehicles with 3,559 (23%) supporting a lower charge level.



#### **4. Recommended modifications to the Variation Order**

The above modification is incorporated into the instrument of confirmation for the variation order contained at Appendix C, which the Mayor is asked to sign.

If the Mayor decides to confirm the Variation Order (with the proposed modifications), the changes would come into effect as follows:

- From 23 October 2017, all eligible vehicles in central London would be required to meet the Emissions Surcharge emissions standards in order to drive in the CCZ during charging hours without paying an additional £10 daily surcharge on top of the Congestion Charge;
- Upon commencement of the ULEZ the Emissions Surcharge would end for all except residents of the Congestion Charging/ ULEZ area; and
- Upon the expiry of the ULEZ sunset period for residents, the emissions surcharge would end for residents of that area.

TfL will run a large-scale publicity campaign with operators / vehicle owners to make them aware of the requirements of the scheme. These activities would form part of a programme of work to ensure that, as far as practically possible, vehicle operators were aware of the daily charge and were given the opportunity to take any necessary action to ensure their vehicles were compliant ahead of the proposed introduction of the scheme.

#### **5. Objectives and expected outcomes**

The objective of the ES is to reduce air pollutant emissions from road transport, particularly those with greatest health impacts, to support mayoral strategies and contribute to achieving compliance with legal limit values for air pollutants. It is designed as a stepping stone to the implementation of the ULEZ, sending a clear signal that immediate action is being taken to reduce air pollution.

As with all impact assessments, there is a degree of uncertainty as to how people may respond, especially when taking into consideration the preparation vehicle owners will be doing ahead of the central London ULEZ launch, currently scheduled for September 2020.

The proposed £10 surcharge could encourage some drivers to stop travelling into the zone. Equally, it is sufficient for some owners of light vehicles, particularly those who frequently drive in central London, to consider buying a newer vehicle – one that is also likely to be compliant with the ULEZ standards.

The reality will be that different people will do a mixture of things, including continuing to drive into the zone. The mid-range estimate assumes 40 per cent upgrade and seven per cent stop travelling into the zone. This leads to emissions savings from cars of two per cent for NOx and one per cent for PM<sub>10</sub>. For total road transport the total emission saving is 0.5 per cent for NOx and 0.3 per cent for PM<sub>10</sub>. This is the saving that would be achieved across the entire first year. During the hours that the ES operates, the emissions savings, as a proportion of total emissions during those hours, would be higher.

High Level emissions savings have been estimated for the ULEZ suggestions and are described in the C&I Documents. Should the mayor wish to proceed with developing proposals for the ULEZ these will be developed and assessed accordingly.

#### **6. Equality comments**

The public sector equality duty requires the identification and evaluation of the likely potential impacts, both positive and negative, of the decision on those with protected characteristics (age, disability, gender

reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) and the setting out of how these duties are being addressed). Please refer to <http://intranet.london.gov.uk/pages/glas-equality-duty> for further guidance.

An Equality Impact Assessment (EqIA) for the emissions surcharge was carried out as part of the IIA stated above and is included in Appendix B. It found that there were negligible negative impacts on some equality groups. (Should the Mayor wish to proceed with work to develop statutory proposals for changes to the ULEZ an EqIA would be undertaken for these proposals as part of a full IIA.)

## 7. Other considerations

### Risks

GLA officers consider that TfL has adopted sound project management techniques in making the ES proposals (including those in the Variation Order) and that risks have been appropriately mitigated. Officers have taken the following steps to mitigate the risk:

- The proposals as a whole, including making of the Variation Order and the consultation on it which was encompassed in the public and stakeholder consultation, was conducted in accordance with relevant standards and the guidance issued by the Mayor as relevant (see RTM);
- TfL prepared an impact assessment which considered the impacts of the proposals, and the proposed modifications to the Variation Order on targeted groups;
- TfL considered the consultation responses and as a result suggested modifications to the Variation Order as outlined; and
- TfL officers sought legal advice throughout the development and implementation of the proposals.

### Links to strategies

#### *The Mayor's Air Quality Strategy*

Under the GLA Act the Mayor of London has legal responsibility for preparing an Air Quality Strategy for Greater London for the purpose of securing the achievement of air quality standards or objectives (the applicable limit values under the Air Quality Directives), and leads on the implementation of measures in that area to tackle pollution emissions, reduce exposure, raise awareness and integrate air quality and public health. This strategy (MAQS) was published in December 2010. The Mayor and TfL must have regard to the Strategy when exercising their functions.

The Environment Act 1995 requires local authorities (including London boroughs) to designate and develop an action plan for areas where it appears that any air quality standards or objectives are not being achieved. The Mayor has a statutory responsibility to oversee this process, including reviewing Local Authority reports and Action Plans, and has powers to direct them to take necessary action.

The Mayor's Air Quality Strategy (MAQS, 2010) outlines policies to improve air quality in London, alongside future proposals to meet the EU limit values and improve public health in London. The proposals are wide ranging, covering 'softer measures', such as education and awareness campaigns to encourage sustainable travel behaviour, and 'harder measures', such as Low Emission Zones.

The 2010 MAQS identifies the scale of air pollution reduction required. The impacts of the measures set out in MAQS were modelled and it was predicted that some locations would still exceed limit values for NO<sub>2</sub> and further action would be required. The MAQS states: "At some locations, however, including kerbsides closest to major roads in central London, limit values will still be exceeded in 2015 to the extent that a further reduction in emissions of 40 to 60 per cent will be needed to meet them."

Emission reductions from implementation of the ES would bring health benefits to Londoners. However, the Emissions Surcharge by itself will not ensure that London achieves compliance with the limit values for NO<sub>2</sub>.

The suggested alterations to the ULEZ would bring about further reductions in emissions and in concentrations of NO<sub>2</sub>. These suggestions are currently in need of further development and it is recommended that TfL conducts further work to take them forward as formal proposals for statutory public and stakeholder consultation in due course.

Further action to reduce air pollutant emissions will be set out in the forthcoming revision of the Mayor's Transport Strategy (MTS) and London Environment Strategy (which will contain provisions relating to air quality).

Whilst London can and is taking significant action to reduce emissions, Government and EU action is also required to tackle the issue and resolve the current infraction of NO<sub>2</sub> limit values.

### *Road user charging*

The GLA Act provides that changes or variations to a road user charging scheme must be desirable or expedient for the purpose of directly or indirectly facilitating achievement of proposals in the MTS and must be in conformity with the MTS.

The Mayor is developing a revised MTS. It is expected that policies to reduce emissions will form part of this. Until the new strategy is launched, the current MTS (published in 2010) applies. The 2010 MTS contains policies and proposals to tackle poor air quality resulting from transport, and to permit vehicle charging based on exhaust emissions. One of its six goals is to 'enhance the quality of life for all Londoners' with the associated outcome of 'reducing air pollutant emissions from ground-based transport, contributing to EU air quality targets'.

The Variation Order, and the Emission Surcharge proposals it implements, fulfil these requirements and are in conformity with and implements (directly or indirectly) the following MTS (2010) policies:

- MTS Policy 15 states that the Mayor, through TfL, will seek to reduce emissions of air pollutants from transport. This policy is carried forward through (among others) proposals 95 and 129 of the MTS.
- Proposal 129 covers the Congestion Charging scheme, and states that the Mayor will keep it under review. The policy permits variations to the Congestion Charge to ensure (among other things) it helps deliver the desired outcomes of the MTS, including a reduction in air pollutant emissions from ground-based transport, contributing to EU air quality targets and legal limits.

In addition the proposals for the ES are complementary to Proposal 95 of the MTS<sup>10</sup>, which in addition to setting out that the Mayor will continue to operate the existing LEZ with potential further phases, will also '*...d) if necessary, the Mayor will consider introducing minimum requirements for other vehicles or tighter standards in particular locations in London...*'.

Also of relevance here are MTS Proposals 92 and 93<sup>11</sup> which set out that the Mayor, through TfL and working with London boroughs, transport operators and other stakeholders will introduce measures to reduce emissions from buses, taxis and PHVs, and support the uptake of low emission vehicles. Proposal 94 states that there could also be '*...targeted local measures at poor air quality priority locations to reduce emissions and improve local air quality.*'

In preparing the Variation Order, TfL, in consultation with GLA officers, has had regard to the consistency with other relevant Mayoral strategies, including the Economic Development Strategy, the London Plan, the Mayor's Air Quality Strategy (MAQS) and Climate Change Mitigation and Energy Strategy (CCMES). No inconsistencies have been identified. The Mayor is advised that the Emission Surcharge proposals involving changes to the Congestion Charging Scheme (as set out in the published Variation Order) and TfL's recommended modifications to it, are desirable and/ or expedient for the purpose of directly or indirectly facilitating achievement of the MTS proposals identified above.

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<sup>10</sup> Proposal 95 is on page 234 of the MTS

<sup>11</sup> Proposals 92 & 93 are on page 231 of the MTS

## *A City for All Londoners*

A City for All Londoners, the Mayor's vision for London, includes a vision for air quality as part of a healthy, resilient green and fair city. Specific reference is made to the implementation of the ES, and the suggested ideas for changes to the Ultra Low Emission Zone.

### Integrated Impact Assessment

The making or confirmation of a Variation Order to amend the CC Scheme Order is not a plan or programme within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) and EU Directive 2001/42/EC, nor a project within the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) and EU Directive 85/337/EEC (as amended). Nonetheless, it was considered prudent to undertake an Integrated Impact Assessment to ascertain the likely significant environmental, equality, economic and other relevant impacts or effects (if any) arising from measures in the emissions surcharge (including as recommended to be modified or changed) which as far as possible and relevant conformed to the strategic environmental assessment requirements of the 2001 Directive and 2004 Directions.

As no formal proposals were put forward for the changes to the ULEZ, the IIA did not cover this element of the consultation.

An IIA was been carried out to examine the likely significant impacts of the ES proposal on the environment, health, equalities and the economy. This was complementary to the full IIA carried out for the ULEZ, when it was consulted on in 2014. The ES is a lower impact scheme than the ULEZ, applying only to a small proportion of the vehicles that pass through or within the Congestion Charging Zone, which is a small area within Greater London.

Rather than repeat a full IIA, the impacts identified in the IIA for the ULEZ when it was developed in 2014/15 were considered in terms of whether they will apply for the ES and to what degree. Consideration was also given to whether there are further, additional impacts owing to the new charge.

The full assessment is provided in Appendix B as part of the C&I Document. In summary, the proposed ES will result in an overall positive impact, particularly when considering the contribution towards environmental and health objectives. There were a few 'negligible negative' impacts identified, as well as one 'minor negative' impact that relates to small and medium sized enterprises (SMEs), owing to the cost of upgrading vehicles or paying the charge.

Overall, the assessment concludes that the ES will have a minor positive impact London-wide in the short term. This ES is purposed to act as a stepping stone ahead of the full introduction of the ULEZ (see section 3.8 on page 43), when tighter vehicle emissions standards will come into force. It is made clear that, with the ES scheme, the Mayor intends to take action quickly on air quality.

## **8. Financial comments**

There are no direct financial consequences for the GLA arising from this report.

The Emissions Surcharge will be funded through the TfL investment programme.

## **9. Legal comments**

(This section covers legal issues not addressed elsewhere in this Form.)

### General comments

The Mayor has the power to vary the Congestion Charging Scheme Order under paragraph 38 of Schedule 23 to the GLA Act and any order making variations. TfL made a Variation Order (the ES Variation Order) to change the Congestion Charging Scheme Order on 6 October 2016 which may only take effect if confirmed by the Mayor with or without modifications. In order to make a lawful decision on whether to confirm the Variation Order, and if so whether or not to approve modifications to it, the Mayor must comply with

statutory procedural requirements and make a rational decision, after having taken into account all relevant considerations and discounting irrelevant ones. This section covers the remaining legal issues not addressed elsewhere in this Form or the RTM.

#### ES Variation Order

The emission standards and charges for vehicles under the ES will be implemented by means of the Mayor's confirmation of the Variation Order (with or without modifications). The GLA Act gives TfL the power to create or vary road user charging schemes in Greater London. Details of the required contents of a scheme order are contained in Schedule 23 of the GLA Act which stipulates that a charging scheme must:

- Designate the area to which it applies
- Specify the classes of motor vehicles in respect of which a charge is imposed
- Designate those roads in the charging area in respect of which a charge is imposed
- Specify the charges imposed

These powers were used to implement the Congestion Charging scheme in central London<sup>12</sup>, which took effect from 17 February 2003, and also the London LEZ<sup>13</sup>, which took effect from 4 February 2008. The proposed ES vehicle emission standards and the £10 non-compliance charges (and levels of applicable penalty charge notice) will operate as part of the Congestion Charging scheme. It therefore will apply to Congestion Charging zone (CCZ) and specifies vehicle emissions standards which vehicles must meet in order to drive in the zone without being subject to the Surcharge.

#### Requirements of Schedule 23 GLA Act regarding the Variation Order

The power to make and confirm a Variation Order is exercisable in the same manner and subject to the same limitations and conditions as the making of a scheme order. As a result, the making, approval and possible modification of the Variation Order are subject to the same Schedule 23 requirements for the making of a charging scheme. Paragraph 4(3) of Schedule 23 provides that the Mayor acting on behalf of the Greater London Authority may –

- consult, or require an authority making a charging scheme to consult, other persons;
- require such an authority to publish its proposals for the scheme and to consider objections to the proposals;
- hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme;
- appoint the person or persons by whom any such inquiry is to be held;
- make modifications to any such order, whether in consequence of any objections or otherwise, before such order takes effect;
- require the authority by whom any such order is made to publish notice of the order and of its effect;
- require the authority by whom any such order is made to place and maintain, or cause to be placed and maintained, such traffic signs in connection with that order as the Mayor may require.

Paragraph 4(3) applies to the making, confirmation and modification of the ES Variation Order.

Paragraph 34 of Schedule 23 provides for the Mayor to issue guidance to TfL or any London borough councils in relation to the discharge of their functions under Schedule 23. Paragraph 34(2) requires TfL to have regard to any guidance issued by the Mayor when exercising its functions under Schedule 23. A

previous mayor, Ken Livingstone, published guidance to TfL on charging schemes pursuant to Schedule 23 of the GLA Act ("the Mayoral Guidance") on 16 February 2007. The measures included in the ES Variation Order are considered to be a major variation under Section 4.1 of the Mayoral Guidance. TfL had regard to the Guidance in relation to the making of the Variation Order and conducted the consultation in compliance with the requirements specified under Section 4 of the same. The Variation Order was subject to public and stakeholder consultation between 10 October and 18 December 2016.

### Climate change duties

The Mayor's attention is drawn to his duties under Section 361A of the GLA Act to address climate change, so far as relating to Greater London. In the case of the Mayor, this duty consists of each of the following:

- to take action with a view to the mitigation of, or adaptation to, climate change;
- in exercising any of his functions under this Act or any other Act (whenever passed), to take into account any policies announced by Her Majesty's Government with respect to climate change or the consequences of climate change; and
- to have regard to any guidance, and comply with any directions, issued to the Authority by the Secretary of State with respect to the means by which, or manner in which, the Mayor is to perform the duties imposed on him as above.

No specific guidance under the third bullet point above has been issued by the Government with regard to the confirmation or modification of charging scheme variation orders.

### Power to hold a public inquiry

Paragraph 4(3) of Schedule 23 provides that the Mayor may 'hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme'. Whether an inquiry should be held to consider the implementation of the measures contained in this Variation Order is a matter for the Mayor to decide.

TfL advise that no specific request for a public inquiry into the published ES proposals themselves to be held was received during the consultation.

GLA officers doubt that much further quantitative evidence beyond that already supplied by TfL and GLA officers would emerge in an inquiry that would assist the Mayor's decisions. GLA officers note that an inquiry would delay the confirmation of the Variation Order. GLA Officers do not consider that there are any issues which point strongly to the holding of an inquiry and do not recommend that an inquiry be held.

### Considerations under the Human Rights Act 1988

Under Section 6 of the Human Rights Act 1998 ("the Human Rights Act"), it is unlawful for a public authority to act in a way which is incompatible with the European Convention on Human Rights. The Mayor and TfL are therefore obliged to consider possible impacts upon people's convention rights before taking any actions. Few of the rights protected by the Convention are absolute. The majority of Convention rights which are potentially capable of being the subject of interference from the actions of public bodies, most notably the right to privacy and family life and the right to the peaceful enjoyment of possessions, are subject to express limitations which permit restrictions of the rights for certain specified purposes. In assessing whether any established interference with a convention right falls lawfully within a permitted category of restriction, the public body must demonstrate the level of interference is proportionate to the public benefit to be derived from the action.

In the view of GLA officers, confirmation of the Variation Order (without modification), and the ES it implements, would not raise any particular Human Rights Act considerations.

### Best Value

The GLA, in so far as it exercises its functions through the Mayor, is a "best value authority" under the provisions of Section 1 of the Local Government Act 1999 ("the 1999 Act"). TfL is also a best value authority under that Act. Under Section 5 of the 1999 Act, the GLA and TfL must conduct best value

reviews of their functions in accordance with the provisions of any order made by the Secretary of State under that section.

Any review which includes a review of the implementation of the measures contained in this Variation Order must be in accordance with the Local Government (Best Value) Performance Review Order 1999, as amended. In conducting such a review, the two bodies are under a duty to aim to improve the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness, and must have regard to any guidance issued by the Secretary of State under Section 5 of the 1999 Act.

In the view of GLA officers, no negative cost / benefit concerns arise in relation to the measures contained in the ES proposal and/ or the approval of the Variation Order.

## 10. Planned delivery approach and next steps

Activity	Timeline
Announcement [if applicable]	17 February 2017
Delivery Start Date [for project proposals]	23 October 2017

### Appendices and supporting papers:

**Appendix A** – The Greater London (Central Zone) Congestion Charging (Variation and Transitional Provisions) Order 2016

**Appendix B** – TfL’s Report to the Mayor following consultation with the public and stakeholders on a Variation Order making changes to the Congestion Charging scheme, which include the Consultation and Information Document and the Integrated Impact Assessment for the ES.

**Appendix C** – Instrument of Confirmation

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

**Part 1 Deferral:**

**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason:

Until the Mayor publicly announced his decision.

Until what date: (a date is required if deferring) 17<sup>th</sup> February 2017.

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Elliot Treharne has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Shirley Rodrigues has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 13 February 2017.

**EXECUTIVE DIRECTOR, RESOURCES:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

*M. D. O'Leary*

Date

13.2.17

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

*D. Bellamy*

Date

16/2/2017