

**ULEZ CONSULTATION:  
COMPLAINT AGAINST THE MAYOR OF LONDON**

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**INVESTIGATION REPORT**

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Introduction

1. I have been instructed by the Monitoring Officer of the Greater London Authority (“GLA”) to investigate a complaint submitted by Nicholas Rogers AM about public statements made by the Mayor of London with regard to the consultation which ran between 20 May 2022 and 29 July 2022 on proposals which included the expansion of the Ultra Low Emissions Zone (“ULEZ”) (“the ULEZ Consultation”).
2. I am a self-employed barrister with a specialism in local government law and am the editor of the forthcoming textbook *Cornerstone on Councillors’ Conduct and Standards in Public Life*. I am an experienced investigator of complaints against local authority members.

The complaint

3. The complaint was submitted by letter dated 16 January 2023. A copy of the complaint is enclosed as Appendix 1. It comprised three broad allegations:
  - (a) the Mayor made “*false and dishonest*” statements to the London Assembly in relation to his knowledge about the ULEZ Consultation at Mayor’s Question Time on 13 October 2022 and at a plenary meeting on 17 November 2022;
  - (b) the Mayor made “*misleading*” statements about the ULEZ Consultation and his knowledge about it at Mayor’s Question Time on 13 October 2022, People’s Question Time on 2 November 2022, Mayor’s Question Time on 17 November 2022 and a plenary meeting of the London Assembly on 17 November 2022;
  - (c) the Mayor’s senior staff “*improperly used GLA resources to interfere with the [ULEZ Consultation] process to skew the results in the Mayor’s favour, most likely under the Mayor’s instruction.*” Two instances of alleged interference by officials were cited.
4. The Mayor provided a written response to the complaint by a letter dated 31 March 2023. A copy of the Mayor’s response is enclosed at Appendix 2. He denied all of the allegations.

Scope of the investigation

5. In making an initial assessment of the complaint, the Monitoring Officer has decided that allegations (a) and (b) in paragraph 3 above should be referred for investigation. Accordingly, this investigation is limited to a consideration of those allegations only.

6. As set out in the investigation plan agreed with the Monitoring Officer (enclosed as Appendix 3), I will consider the complaint against the following paragraphs of the Code of Conduct for the GLA ("the Code"):

(a) paragraph 1(4): *"Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest."*;

(b) paragraph 5: *"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute"*.

#### Investigation process

7. In order to investigate this complaint, I reviewed: the complaint, the supporting dossier of evidence (included as a link within the complaint) and the Mayor's response; recordings of Mayor's Question Time on 13 October 2022, Peoples' Question Time on 2 November 2022, Mayor's Question Time on 17 November 2022 and the plenary session of the London Assembly on 17 November 2022; meeting documents and written transcripts of those meetings. I have also read the judgment in *R (London Borough of Hillingdon and others) v Mayor of London* [2023] EWHC 1972 (Admin), which concerned an unsuccessful legal challenge to the Mayor's decision to expand the ULEZ.

8. I interviewed David Bellamy, the Mayor's Chief of Staff to understand a bit more about some background details. I did not consider it necessary to interview anyone else, although I did invite AM Rogers if he wished to add anything further to his complaint in writing. He told me he had nothing further to add.

9. I circulated a draft report with provisional findings to the Mayor and AM Rogers on 9 November 2023 and asked for comments by 23 November 2023. I received a response from AM Rogers on 22 November 2023 (enclosed as Appendix 12). I received a response from Mr Bellamy on behalf of the Mayor on 8 December 2023 (enclosed as Appendix 13). I have considered both responses carefully but (with one exception) have not been persuaded by either to alter my provisional findings. I deal with AM Rogers' response in paragraphs 64-65 below and with Mr Bellamy's response in paragraphs 57, 61, 63 and 77 below. Before submitting the final version

of this report, I attended a short meeting with the GLA's Independent Person and the Monitoring Officer to discuss my findings. In light of the discussion in that meeting, I have provided more explanation as to why I conclude (in paragraph 60 below) that, although certain of his answers were misleading, the Mayor was not being dishonest in giving those answers.

## Findings

### *ULEZ consultation*

10. On 20 May 2022, Transport for London ("TfL") launched a consultation (the ULEZ Consultation) on a number of proposals to reduce air pollution and traffic congestion in London, the most significant of which was a proposal to expand the ULEZ to almost the whole of London. The ULEZ Consultation ran for 10 weeks until 29 July 2022. TfL received almost 58,000 responses. The decision whether or not to expand the ULEZ rested with the Mayor; the consultation was carried out in order to inform that decision.
11. It is clear from internal TfL documents that TfL and GLA officials were keeping tabs on the progress of the consultation throughout. I have seen "weekly summaries" circulated between 30 June 2022 and 5 August 2022 to various senior TfL and GLA recipients, including Shirley Rodrigues (Deputy Mayor for the Environment and Energy), Seb Dance (Deputy Mayor for Transport and Deputy Chair of TfL) and David Bellamy (the Mayor's Chief of Staff). However, there is no indication in the evidence I have seen that these summaries were ever shared with the Mayor during the consultation period. I asked Mr Bellamy about this. He explained, and I accept, that TfL were aware of an "*inevitable risk of JR [judicial review]*" of any decision made by the Mayor. As a result, the Mayor "*was very keen to be kept out of it and to follow that proper process*" and therefore, Mr Bellamy confirmed to me, updates on the progress of the ULEZ consultation were not shared with the Mayor while the process was ongoing.
12. It appears that TfL first started to monitor the use of petitions and campaigns organised by campaigning groups to respond to the ULEZ Consultation around 14 July 2022. A weekly summary produced on that date identified seven "*known petitions*" and two "*known campaigns*" – both in support of and in opposition to the proposed ULEZ expansion – and an estimate of the number of responses they had generated. A copy of that weekly summary is enclosed as Appendix 3.
13. A report to the GLA's Air Quality Implementation Group ("AQIG") dated 20 July 2022 noted three "*active campaigns supporting the proposals*" and that "*[w]e have modified our marketing approach to attract younger people to respond to the consultation. We are using Social media and updated digital advertising.*" A copy of this report is enclosed as Appendix 4. A TfL

document titled “*Consultation Update*” (dated 28 July 2022) also noted, as one of the “*ULEZ actions*”, “[t]argeted marketing of younger age groups” who were said to be under-represented in the consultation responses. A copy of this report is enclosed as Appendix 5. In his written response, the Mayor said that he had no involvement in the decision to commission this marketing campaign:

*“TfL and the GLA have well-established delegated decision making structures in place, and decisions of the order being discussed would not come close to the threshold required for me to be personally involved or made aware, given that total annual GLA Group expenditure is close to £20 billion.”*

I have seen no evidence to contradict this assertion. In any event, given the firewall established between the Mayor and the TfL officers responsible for the ULEZ Consultation while it was ongoing, I accept that the Mayor would not have been involved in or made aware of this relatively low-level spending decision.

14. The final weekly summary of consultation responses was circulated on 5 August 2022 (after the ULEZ Consultation had closed). By this time, there were nine known petitions and five known campaigns. A copy of this document is enclosed as Appendix 6. The document identified three campaigns which had encouraged respondents to submit identical blanket statements without answering any of the consultation questions or providing information about the respondent’s profile. The document explained how these responses would be treated in the consultation analysis as follows:

*“To ensure the key themes of these campaign responses are reflected in the consultation analysis, the blanket statements contained in these emails will be added by AECOM as a response to our ULEZ open question (question 13 in the consultation questionnaire). This action will be undertaken post consultation.*

*For the above reason these email campaign responses are not included in the headline consultation response figure of 52,492. They will be reflected in the overall consultation analysis when AECOM produce their consultation analysis report.”*

15. The ULEZ Consultation was carried out by TfL. However, TfL commissioned external consultants – AECOM – to carry out certain tasks with a view to providing a detailed analysis of the consultation responses. These tasks are recorded in paragraph 1.2 of AECOM’s report (dated 19 October 2022). A copy of AECOM’s report is enclosed as Appendix 7.

*Events subsequent to ULEZ Consultation closing date*

16. On 1 September 2022, Janet Daby, Labour MP for Lewisham East, was reported by the *Evening Standard* to have accused FairFuel UK, one of the campaigning groups which had organised responses, of “dirty tricks” to “manipulate the outcome” of the ULEZ consultation.<sup>1</sup>
17. On 13 September 2022, a meeting of the GLA’s Air Quality Implementation Group (“AQIG”) took place, chaired by Shirley Rodrigues, Deputy Mayor for the Environment and Energy. The Mayor did not attend this meeting. On the agenda for the meeting was an “update” on the ULEZ consultation. This had been a recurring item on AQIG’s agenda for its monthly meetings since at least June 2022.
18. A copy of the slides presented to the meeting is enclosed as Appendix 8. The report was described as containing a “summary of findings from the consultation and sets out issues to consider”. It also noted that “Full details and recommendations will be provided in a suite of decision documents including the Integrated Impact Assessment for (1) the MTS revision and (2) the RUC proposals including ULEZ expansion.”
19. The slide pack ran to 15 pages and included a number of headlines from what were described as the “Consultation survey results”. The third page of the report – “Consultation survey results – concern about air quality and ULEZ discounts, exemptions and mitigations” – broke down responses to three specific questions in the ULEZ Consultation<sup>2</sup> by percentage. The results shown on this slide (and some further slides) were subject to the specific caveat that “percentages [are] subject to minor changes as final data continues to be analysed (target to complete early sept) ...”. In addition, every single slide also contained a boilerplate disclaimer at the foot of the page which stated:
- “This document reflects ongoing work and discussions within TfL and is not intended to reflect or represent any formal TfL or GLA views of policy. Proposals cited may be subject to public consultation and Mayoral approval. Its contents are confidential and legally privileged and should not be disclosed to any unauthorised persons.”*
20. The fourth slide – “Consultation survey results – ULEZ implementation date” – contained some more detailed analysis of responses to question 8, which had asked for views on the proposed implementation date for the ULEZ expansion (i.e. 29 August 2023). The fifth slide – “ULEZ expansion YouGov poll results” – outlined the results of a YouGov poll commissioned by the GLA in July 2022 which had run alongside the ULEZ Consultation. The sixth slide – “Response from London Borough Councils on ULEZ proposals” – summarised the consultation responses

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<sup>1</sup> <https://www.pressreader.com/uk/evening-standard-west-end-final/20220901/281689733631985>

<sup>2</sup> “Q1: How concerned about air quality where you live? [sic]”; “Q6: How important do you consider it is to continue to have these existing discounts and exemptions and reimbursements for ULEZ?” and “Q9: How important is it that the proposed expansion of the ULEZ is supported by a scrappage scheme?”

of some outer London boroughs. The 7<sup>th</sup> to 10<sup>th</sup> slides broke down responses to further consultation questions.

21. The 11<sup>th</sup> slide identified the “*Key issues raised on ULEZ expansion*”. This slide noted five key issues “*raised in the consultation [which] have been considered and responses are being drafted in the Report to the Mayor*”. The slide concluded with the statement: “*Draft responses are set out in the following five slides. Further detail on these and other key issues will be included in the Report to the Mayor and Mayoral Decision form.*” The 12<sup>th</sup> slide proposed “*changes to the scrappage scheme*” and “*mitigations for disabled people*” “[a]s a result of stakeholder engagement and feedback from the consultation”.
22. The 13<sup>th</sup> slide provided “*Responses to other key issues*” which, effectively, amounted to a summary of the case for proceeding with a ULEZ expansion (with some additional mitigations in light of the consultation responses):

**Start date:** *Given the urgent need for action in outer London due to the impact of poor air quality on the health of vulnerable Londoners, the high compliance rates already seen in the zone and the new proposed modifications which will further mitigate impacts on Londoners, we consider the proposed date for expanding the ULEZ London-wide from 29 August 2023 is still appropriate.*

**Outer London:** *We recognise the differences between inner and outer London and responses to the consultation have provided useful feedback on what additional mitigations may be required for a further expansion of ULEZ. However, given the disproportionate impact of poor air quality on outer London residents, we consider the expansion of ULEZ is urgently required to improve air quality London-wide.*

**Penalty Charge Notice (PCN):** *We have considered the proposed PCN increase in the context of the wider cost of living crisis and affordability challenges faced by Londoners. The proposed removal of the AutoPay registration fee should mean that the higher PCN level would act as a deterrent to nonpayment but could easily be avoided by using an account. It should therefore be possible to proceed with this change without having a significant impact on affordability for the vast majority of people.*

*Further detail on all issues raised and our response will be written up in the Report to the Mayor.”*

23. The final slide – “*Next steps*” – indicated that a final decision was expected to be made by the Mayor on 24 November 2023.

24. Following the AQIG meeting on 13 September 2023, the slide pack was subject to some small changes, in light of the discussion which took place at that meeting, to prepare a draft “*London-wide ULEZ, MTS and Road User Charging consultation results – Briefing for the Mayor*”. It was initially anticipated that the presentation would be given to the Mayor on 20 September 2022. However, ultimately that presentation was rescheduled to 29 September 2022.

*Presentation to the Mayor – 29 September 2022*

25. On 29 September 2022, the Mayor met with the TfL Commissioner, Andy Byford, and members of the Executive Committee of TfL. Mr Bellamy explained that this was a routine meeting which takes place fortnightly. Item 1 on the agenda for that meeting was “*Road User Charging – ULEZ consultation*”. Mr Bellamy explained that the other agenda items related to other areas of TfL business, including its finances and a review of staff pensions.
26. Item 1 included a presentation was given by Alex Williams (Chief Customer and Strategy Officer, TfL) and Christina Calderato (Director of Transport Strategy and Policy, TfL). The title of the presentation was “*London-wide ULEZ, MTS and Road User Charging consultation results – Briefing for the Mayor*”. A copy of the presentation is enclosed as Appendix 9. The same boilerplate disclaimer (see paragraph 19 above) appeared at the foot of each slide.
27. The presentation was more or less the same as that which had been given to the AQIG meeting on 13 September 2022 (see paragraphs 17-23 above). The substantive changes were as follows:

- (a) slide 2 described the presentation as

*“a summary of the findings from the consultation and sets out some options to consider to ensure we respond to the concerns raised in the consultation. No decisions are required today, as the decision papers will be submitted for your consideration later in the year.”*

Slide 2 also noted that “*full details and recommendations*” would be provided to the Mayor in due course;

- (b) slide 12 described the three categories of “*grace period*” which had been included in the proposal, so as to mitigate the impact of a ULEZ expansion on disabled people;
- (c) slide 13 recommended further modifications to the proposals related to the grace periods, “[a]s a result of stakeholder engagement and feedback from the consultation”;

(d) similarly, slide 14 recommended “*making a number of modifications in response to issues raised during consultation [in relation to] scrappage*”; and

(e) slide 15 – “*Responses to other key issues*” – essentially repeated the summary case for proceeding with a ULEZ expansion on 29 August 2023, subject to the proposed modifications set out on the preceding slides. It noted, as had the equivalent slide in the AQIG slide pack, that “*Further detail on all issues raised and our response will be written up in the Report to the Mayor.*”

28. A note of the meeting on 29 September 2022 was subsequently circulated. A copy is enclosed as Appendix 10. This records:

*“Alex Williams and Christina Calderato outlined the case for action on poor air quality, the responses to the consultation including from London boroughs, the results from representative polling and proposed mitigations in response to the feedback received. While no decision was being requested of him, the Mayor was content with the approach to proposed mitigations. It was noted that having a sufficiently-large scrappage scheme would be important should the Mayor decide to confirm the scheme and that the consultation report for the Mayor was now being drafted. It was also noted that the changes to the Mayor’s Transport Strategy had to be laid before the London Assembly.”*

29. Mr Bellamy explained that this briefing would have been given to the Mayor because the ULEZ Consultation was a significant item of work for TfL and TfL officials “... *felt ... that ... it shouldn’t be something that just happens in a vacuum and then suddenly this huge ... stack of paperwork lands on the Mayor’s desk.*” He described the purpose of this briefing as explaining to the Mayor the process that TfL had gone through, what information TfL had at that point and the next steps in the decision-making process.

30. Mr Bellamy emphasised, as had the Mayor in his written response, that this briefing did not constitute the final results of the ULEZ consultation. Mr Bellamy explained that the headline figures presented to the Mayor in this briefing were “*consultation survey results*”<sup>3</sup> and so did not (as the Mayor had put it in his written response) constitute “*the complete and final account of the consultation*” (Appendix 2). Mr Bellamy said that the ULEZ Consultation was not a referendum and therefore the headline figures were only part of the consultation process; he said that the real value of a consultation comes from a much deeper, thematic analysis of the

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<sup>3</sup> Slides 4 and 7-10 were headed “*Consultation survey results...*”; slide 8 was headed “*Consultation results and YouGov Poll – ULEZ implementation date*”



responses, including the free-text responses, rather than simply adding up the numbers from the survey answers. At the time of this briefing, this work was still being carried out by AECOM and was not presented to the Mayor until much later (see paragraph 44 below). He also pointed to the disclaimer on the slides (see paragraph 19 above) which, he said,

*“made explicitly clear ... that these were not necessarily final numbers and were subject to change. It felt a bit ... like a football match approaching injury time: you might know what’s going to happen, but you don’t actually know yet.”*

#### *Daily Telegraph report – 30 September 2022*

31. On 30 September 2022, the *Daily Telegraph* published an article under the headline, *“Leak reveals two-thirds oppose Sadiq Khan’s Ulez expansion”*. A copy of the article is enclosed as Appendix 11. The report appears to have been based on the two weekly summaries which had been circulated by TfL dated 30 June 2022 and 5 August 2022 (see paragraph 11 above).
32. The article also referred to TfL’s treatment of bulk consultation responses organised by various campaigning groups, suggesting that the leaked documents – which purportedly showed a reduction in the number of responses that the ULEZ expansion should not be implemented at all – *“[risk] Mr Khan facing claims that more stringent screening of one-click templates was being applied to opposition votes.”*
33. The article carried a quote from Bob Blackman, Conservative MP for Harrow East, in which he called for

*“complete transparency about the reasons votes are being filtered out and what oversight there is to ensure that the consultation is being conducted fairly. ... The mayor must publish the unfiltered voting results and explain how many votes were subsequently removed – and for what reasons – when the final outcome is published.”*

A spokesperson for the Mayor was quoted as having denied that he would influence the consultation results and that an *“[i]ndependent consultation is ongoing and a full consultation report will be published in due course.”* A similar quote was provided on behalf of TfL.

#### *Mayor’s Question Time – 13 October 2022*

34. On 13 October 2022, the London Assembly met for a session of Mayor’s Question Time. This was the first Mayor’s Question Time since the ULEZ Consultation had closed and came less than two weeks after the *Telegraph* article had been published. Question no. 2022/3498 was

submitted by AM Rogers and asked: “Following the closure of TfL’s ULEZ Consultation, what are the next steps you intend to take?”

35. A recording of the meeting is available to watch on the GLA’s [website](#). The Mayor is accused of having given false and dishonest or misleading statements in his responses to questions asked of him by AM Rogers and Peter Fortune AM at this meeting. In order to assess that allegation, it is necessary to appreciate the Mayor’s answers in context and therefore I have quoted the exchanges in full:

**Sadiq Khan (Mayor of London):** *Following the closure on 29 July [2022] of the consultation on my proposals to improve air quality and Londoners’ health, tackle climate change and reduce congestion, TfL has been preparing a comprehensive report to enable me to make a decision on next steps. I am told that the report will include analysis of the responses submitted during the consultation, the Integrated Impact Assessment, and other material relevant to my decision.*

*TfL has appointed an independent consultant to produce a report with analysis of the consultation responses. This work is underway and will inform two reports that TfL will share with me. The first report will cover the amendments proposed to the Mayor’s Transport Strategy (MTS) and the second will cover the other proposals TfL consulted on, including the expansion of the ULEZ to all of Greater London. Along with other relevant information, these reports will include a full breakdown of all the consultation responses. I expect to receive the reports for my consideration and to publish my subsequent decisions before the end of this year, as well as laying the MTS revision before the Assembly. It would not be appropriate for me to sidestep due process by providing a running commentary on the analysis that is underway.*

*My proposal to expand the ULEZ London-wide is designed to help address the triple challenges of improving air quality and public health, tackling the climate emergency and reducing traffic congestion across Greater London. Information already in the public domain includes the YouGov polling commissioned by the Greater London Authority (GLA) that shows that a majority of Londoners believe that the planned expansion should go ahead, against 27% who don’t.*

*Toxic air caused by road traffic is still leading to thousands of premature deaths a year. The greatest number of deaths attributable to air pollution are in London’s outer boroughs, which the ULEZ doesn’t currently cover. The ULEZ has already been hugely successful in central and inner London, helping reduce roadside pollution levels by nearly a half. Five million people are expected to breathe cleaner air if the ULEZ is expanded to outer London. The expansion would reduce the number of Londoners living in areas exceeding interim World Health Organization targets for nitrogen dioxide by 13%.*

*I will consider all available information before making my decision on the way forward.*

**Nick Rogers AM:** *Thank you, Mr Mayor. An investigation by The Daily Telegraph brought forward serious concerns about how the consultation was being managed. Your timeline of showing us the analysis of the consultation by the end of the year is not good enough. These concerns need to be allayed. Will you open the consultation process to public scrutiny so people can see how these responses are being processed?*

**Sadiq Khan (Mayor of London):** *As I have said in my answer, Chair, TfL will be preparing a report in due course and they will be publishing, as they always do, all the information. I am sure people will have a chance to see it and be reassured or not reassured once TfL publish all the information. This is not the first consultation TfL have undertaken, it is not the first consultation people have been unhappy about and it is not the first consultation where those who are against a certain policy have had objections, and we’ve got to let the process*

run its course. As ever, TfL will be completely transparent when it comes to consultation responses and their analysis before I make my decision.

**Nick Rogers AM:** It sounds to me like you are ignoring the fact that there are serious concerns being raised right now about this consultation and the way it is being handled. We have had multiple whistleblowers come forward to express their concerns, and whilst you say it is not appropriate for you to provide a running commentary I think it is appropriate - in fact, I think it is incumbent on you - to allay those concerns and open the consultation process to scrutiny. When you were sworn in you said that you were going to be the most transparent Mayor that London has ever had. This is your chance to put concerns to rest and to make good on that promise. Will you do so?

**Sadiq Khan (Mayor of London):** I think I have already explained, Chair, we will be publishing the responses and the consultation. We are going to be completely transparent about that, including the analysis. TfL have even asked an independent third party consultant to do the work just to reassure those who are concerned, but also to make sure there is the right expertise in relation to the analysis that is undertaken. If TfL were to publish in real time before a recommendation has been made, they'd be criticised and challenged for haste. They are damned if they do, and they are damned if they don't.

**Nick Rogers AM:** TfL and yourself would be applauded, I think, for transparency if they were to demonstrate how these consultation responses were being managed. You yourself have said that the consultation has been "hijacked". What evidence do you have for that?

**Sadiq Khan (Mayor of London):** I think at this week's TfL Board meeting one of the TfL officers explained there were concerns in relation to campaign groups and those from outside London having disproportionate numbers in there. The two issues and themes that have been raised are being looked into by TfL. That's all he gave details of at the TfL Board meeting. It's really important I do not prejudge my decision. I have not predetermined what I am going to do. The danger of me giving opinions in relation to the issues already raised at TfL Board is that the impression could be given that I have predetermined it. I haven't. It is really important for TfL to speak on any concerns they have. TfL are concerned because of the stuff on social media from some of the national groups, the fossil fuel interest groups, about some of the things they have said, including heat maps from around the country where they've responded. TfL have talked to that at the Board meeting yesterday.

**Nick Rogers AM:** Claiming that a consultation has been hijacked sounds to me a little bit like predetermination. This is your chance to prove that claim. You could open the consultation to public scrutiny and if it has been hijacked that would be shown. Will you open the consultation to public scrutiny?

**Sadiq Khan (Mayor of London):** TfL will in due course.

**Nick Rogers AM:** Thank you, Mr Mayor. I see we are going nowhere with this one and I am out of time. Thank you.

[...]

**Dr Onkar Sahota AM (Chair):** Thank you. There are three more supplementary questions from the Conservative Party on this issue, Mr Mayor. The first one is from Assembly Member Fortune.

**Peter Fortune AM:** Thank you, Chair. With respect, what's stressing the Conservatives is the notion that many Londoners' voices have been squashed. That's what the concern is. So, Mr Mayor, referring back to the report that was in *The Telegraph*, can I ask, have you seen or been briefed on the results of the consultation?

**Sadiq Khan (Mayor of London):** No, I haven't.

**Peter Fortune AM:** You have had no meetings regarding the results of that consultation?

**Sadiq Khan (Mayor of London):** There was a presentation by senior TfL staff Alex Williams [Director of Borough Planning] this week at the TfL Board meeting, where he talked about, in response to a question raised by a Board member, the consultation and the timelines. He also explained, because of some of the issues raised by the disability groups - there had been a workshop for disability groups - some of the issues in relation to scrappage.

**Peter Fortune AM:** So have you seen the results of the consultation?

**Sadiq Khan (Mayor of London):** No, I haven't.

**Peter Fortune AM:** You haven't, OK. During the consultation period, were you at any point briefed on how it was going? Or did you get any information about the results as they stood at a certain period in time?

**Sadiq Khan (Mayor of London):** I've been briefed a lot about policies around the ULEZ. I am not sure of the timeframes. I am sure we can –

**Peter Fortune AM:** Just the results. Mr Mayor, at any point did you sit down and have a meeting and somebody said, "These are the results that we have at the moment"? [overspeaking]

**Sadiq Khan (Mayor of London):** No. I have not seen the results.

**Peter Fortune AM:** At no point between the consultation opening on 20 May [2022] to it closing on 29 July [2022] did you have a meeting, or did anybody tell you the current state of play of those results?

**Sadiq Khan (Mayor of London):** I think there has been a meeting about timelines in relation to when we could expect to receive a report and the further work required. I think that may also include lobbying of the Government in relation to scrappage schemes and so forth, but I've not got the details to hand in relation to what was discussed where.

**Peter Fortune AM:** At no point did anybody tell you, "This is the percentage result at this point; these are the results for, these are the results against; these are the results from inner London, these are the results from outer London"?

**Sadiq Khan (Mayor of London):** No. I'm not sure that work's been done.

**Peter Fortune AM:** You did say earlier that there were some results that were coming from outside London.

**Sadiq Khan (Mayor of London):** Yeah, because it is on social media. You just have to look at the heat map from those who are interested in fossil fuels, which shows – The heat map shows different parts of the country, with great pride, this status quo –

**Peter Fortune AM:** With respect, the suggestion that you gave to us was that there were results coming from outside London.

**Sadiq Khan (Mayor of London):** That is –

**Peter Fortune AM:** You would not know that if you had not had an update on some of the results.

**Sadiq Khan (Mayor of London):** If you let me finish. So, the social media account shows people from outside London responding to the consultation and the group is incredibly proud that its members from outside London are responding, and there's a heat map of the country which shows where their members outside of London have responded.

**Peter Fortune AM:** So, does that mean that you would be excluding the results from outside of London?

**Sadiq Khan (Mayor of London):** I'm not doing the analysis. TfL are, with the independent group.

**Peter Fortune AM:** Would you be happy if TfL excluded the results outside of London?

**Sadiq Khan (Mayor of London):** Well, let's wait and see what TfL do.

**Peter Fortune AM:** OK. In terms of campaign group responses, are all campaign groups being treated the same, whether or not it is FairFuel – who I know are here today – or Living Streets?

**Sadiq Khan (Mayor of London):** We'll have to wait and see what the TfL report says. I think giving a running commentary is incredibly dangerous. Let's wait and see what TfL decide to do in their report and then I can consider it.

**Peter Fortune AM:** Have you asked about the results or how it was going?

**Sadiq Khan (Mayor of London):** Only what was raised at the TfL Board meeting.

**Peter Fortune AM:** What did you ask?

**Sadiq Khan (Mayor of London):** Well, TfL Board members asked the questions.

**Peter Fortune AM:** You did not ask any questions at the TfL Board meeting about the consultation?

**Sadiq Khan (Mayor of London):** No.

**Peter Fortune AM:** Why did you not ask any questions about the consultation and its progress?

**Sadiq Khan (Mayor of London):** Because I think giving a running commentary is unwise. It can give the impression you have predetermined the outcome and it means that due process isn't followed. It is really important for due process to follow. I am happy to repeat the answer I gave earlier on, that TfL is going through the process with an independent company, they'll will be preparing reports for me, and I will then make my conclusion.

**Peter Fortune AM:** Absolutely, and you are Chair of TfL. Are there any consultation responses that are being disregarded or merged or consolidated?

**Sadiq Khan (Mayor of London):** I think that's a question I can answer once I receive the report from TfL later on this year.

**Peter Fortune AM:** You are not aware of any being merged, consolidated or discounted?

**Sadiq Khan (Mayor of London):** This is like a poorly-paid lawyer. Look, until I have seen the report from –

**Peter Fortune AM:** You would know. It takes one to know one, I am afraid.

**Sadiq Khan (Mayor of London):** You sound like Liz Truss now, worse than a lawyer. I will receive the report later on this year, I'll look at the report, I will look at the analysis and then I will make my decision.

**Peter Fortune AM:** I am getting somewhere when you go to insults. That's always a sign.

**Sadiq Khan (Mayor of London):** And now he's Columbo.

**Peter Fortune AM:** Well, one final thing –

**Sadiq Khan (Mayor of London):** One final thing, Chair.

**Peter Fortune AM:** One final thing.

**Sadiq Khan (Mayor of London):** There you go.

**Peter Fortune AM:** Maybe two. Thank you, Chair. Didn't you send us a letter about maintaining a certain demeanour in meetings?

**Dr Onkar Sahota AM (Chair):** I did, but I think that this was just probably a bit of a sense of humour.

**Peter Fortune AM:** It does not apply to Labour is that right?

**Sadiq Khan (Mayor of London):** Chair, could I apologise if my humour has upset his feelings?

**Peter Fortune AM:** I will rise above it because it's pointless. Did TfL at any point support or contribute funds to external agencies that were used as digital platforms to respond to the consultation?

**Sadiq Khan (Mayor of London):** I am not aware, Chair.

**Peter Fortune AM:** You have no knowledge about that?

**Sadiq Khan (Mayor of London):** I am not aware, Chair.

**Peter Fortune AM:** So, in the period from 20 May to 29 July [2022] you did not ask about the consultation, nobody told you about the consultation results, and you didn't ask any questions about the methodology, nobody told you about the methodology, and you are unaware of TfL working with anyone else to increase or promote results?

**Sadiq Khan (Mayor of London):** I am not aware, Chair.

**Peter Fortune AM:** OK. One last thing. Are you, Mr Mayor – or have you read now, because I know my colleague brought this up recently, the Jacobs London-wide ULEZ Integrated Impact Assessment, which I have here, and the details in here about what it says will be the impact on air quality and the significant negative impact on people's financial wellbeing?

**Sadiq Khan (Mayor of London):** The Jacobs report I read in real time when it came out some time ago. The iterations are being taken on board by TfL and there will be further work done in relation to the Integrated Impact Assessment. Those are some of the things that I think were discussed in the disability workshop, according to the presentation given at TfL Board yesterday by the senior TfL staff.

**Peter Fortune AM:** Thank you, Chair.

#### *People's Question Time – 2 November 2022*

36. People's Question Time took place in Redbridge on 2 November 2022. The Mayor and other Assembly Members attended this event. There is no transcript of this event but there is a [recording](#). According to that recording, the Mayor was asked the following question from a member of the public watching the event online:

*“(0:38:00) After 66% of ULEZ expansion consultation respondents rejected ULEZ expansion plans, will you cancel the expansion?”*

37. This was evidently a reference to the “two-thirds” figure quoted in the headline of the *Telegraph* article (see paragraphs 31-33 above). The Mayor responded as follows:

*“(0:40:21) In relation to the question about ULEZ consultation, I’ve not seen the report yet in relation to the responses, so I’m not sure where those numbers come from in relation to those who’ve responded. What happens is, later on, either this month or next month, I’ll be receiving a report from independent consultants TfL has used who analyse the responses to the ULEZ consultation, so there’ll be an independent analysis of the consultation. There’ll be an Integrated Impact Assessment and there’ll be other material. That comes to me and I’ll make my decision. What I’m not able to do is predetermine the outcome or to give a running commentary on media reports about responses but TfL do take consultations very seriously and they’ve been doing them for more than 22 years, and they’re quite expert at doing them.”*

#### *Mayor’s Question Time – 17 November 2022*

38. A further session of Mayor’s Question Time took place on [17 November 2022](#). A recording is available [online](#). Question no. 2022/4221 was asked by AM Rogers. This time only a small extract of the session needs to be quoted:

*“What consideration have you given to the concerns raised about your ULEZ expansion proposals and the consultation process?”*

**Sadiq Khan (Mayor of London):** *Action must be taken to improve air quality across the capital. The statistics are stark. Thousands of Londoners are dying prematurely every year from long-term exposure to air pollution. Over 500,000 Londoners live with asthma and are more vulnerable to the impact of toxic air. Every hospital, medical centre, and care home across London, both inner and outer, are in areas that breach the World Health Organization’s (WHO) guidelines for nitrogen dioxide and particulate matter. We must act.*

*The proposal to expand the ULEZ London-wide is designed to help address the triple challenges of improving air quality and public health, tackling the climate emergency, and reducing traffic congestion across London. The central London ULEZ transformed air quality in central London with air pollution reducing by nearly half within the zone. Since I expanded the ULEZ to inner London in Autumn 2021, 4 million Londoners living in the expanded zone are now breathing cleaner air. Widening the ULEZ to all of London would benefit the 5 million Londoners who live in outer London and many more who visit for work or leisure.*

*This proposal strikes the best balance between maximising the health and environmental benefits for Londoners while minimising the cost to those who rely on the use of motor vehicles. TfL takes its responsibility to run robust and legally-compliant consultations extremely seriously and has run proper and fair consultations for over 20 years. Best practice has been followed in this latest consultation. An independent consultancy analysed every consultation response received before the deadline and shared their findings with TfL in September. TfL is incorporating these findings into their final report. All consultation responses are reviewed and analysed and TfL responds to all issues raised.*

*Only responses that contravene TfL's policies on work-related violence and aggression are excluded. I am simply unable to comment further on feedback from consultation responses and the content of the report until I receive it. Once I have received the report and other consultation materials from TfL, and the proposed revision to the Transport Strategy has been approved and published, I will be in a position to make my decision on whether or not the ULEZ will be expanded London-wide. We have too often seen action delayed in the UK and around the world because it is viewed as being too hard or politically inconvenient. I am committed to continuing action to reduce the impact on Londoners of toxic air, whatever decision I may take on the expansion of the ULEZ London-wide."*

*London Assembly Plenary Meeting – 17 November 2022*

39. Later on 17 November 2022, the London Assembly held a [plenary meeting](#). The [recording](#) is available to view online. Item 3 on the agenda was a discussion of a proposed revision to the Mayor's Transport Strategy ("MTS"):

*"The Mayor, through TfL and the boroughs, will seek to address the triple challenges of toxic air pollution, the climate emergency and traffic congestion through road user charging schemes including by expanding the Ultra Low Emission Zone London-wide."*

40. In light of AM Rogers' response to a draft version of this report, it is necessary to provide some context for this meeting. In legal terms, the ULEZ expansion was achieved by making the Greater London Low Emission Zone Charging (Variation and Transitional Provisions) Order 2022 ("the 2022 Order") which amended an earlier charging order from 2006. The legal power to make the 2022 Order is found in Schedule 23 to the Greater London Authority Act 1999 ("the 1999 Act"). However, that power to make or (as in this case) vary a charging order can only be exercised where the new charging scheme would in conformity with, and would facilitate policies and proposals within, the MTS. The version of the MTS that existed prior to this meeting did not include a policy of expanding the ULEZ to the whole of London. Therefore, before that could be done, the law required the MTS to be amended to include this policy.
41. Where the Mayor proposes to vary the MTS, he is obliged to "*lay a copy of the draft*" revised MTS before the Assembly: section 42B(3) of the 1999 Act. By sections 42B(4) and (5) of the 199 Act, the Assembly has power to reject the draft (subject to a two-thirds supermajority requirement). This was the purpose of the plenary meeting of the Assembly on 17 November 2022: the question for the Assembly, in essence, was whether to accept or reject the proposed revision to the MTS. That decision would determine whether the Mayor would be able to exercise his legal power to expand the ULEZ.
42. The question-and-answer session on this item included this exchange between AM Fortune, Seb Dance and the Mayor:



**Dr Onkar Sahota AM (Chair):** You said that Assembly Member Peter Fortune asked good questions this morning, and it is over to Assembly Member Fortune now.

**Peter Fortune AM:** Seb, I am really interested in data, and I really like to do an analysis of the facts we have. When you were talking earlier about the attributable premature deaths, was it the Imperial College report you were referring to?

**Seb Dance (Deputy Mayor for Transport):** Yes; the 4,000 premature deaths across London.

**Peter Fortune AM:** I went to speak to them about it or we got to speak to them about it, and what I found odd about that data - and I just wondered if you had reflected on this - is they did not put in any weighting about age, and they did not account for some of those boroughs having older populations. I am no doctor, but I believe that older people die more than younger people, and so that is going to have an impact on those figures. What is interesting as well is it took no account for care homes, and you get a lot of care homes in outer London. You have people moving into a borough such as Bromley for the last sort of two years of their life, and those deaths are being counted as attributable as a result of the study that Imperial College put forward. Is that right?

**Seb Dance (Deputy Mayor for Transport):** No, that is not. The study is looking at premature deaths as in deaths that would not have occurred had air quality not been a factor.

**Peter Fortune AM:** Is it not taking account for the age?

**Seb Dance (Deputy Mayor for Transport):** It is. Correct me if I am wrong, but are you relying on an analysis from Dr Marc Stettle by any chance?

**Peter Fortune AM:** No, no, no. Is that the YouTube thing? No, I went and looked at the data and we spoke to Imperial College about it. I followed up because there was inadequate data.

**Seb Dance (Deputy Mayor for Transport):** No, the data is robust. It is conducted over a long period, not just an eight-week initial period, which is what some of the criticism of it has been based on. It is solely focused on premature deaths.

**Peter Fortune AM:** Just to be very clear: you believe there is weighting for age?

**Seb Dance (Deputy Mayor for Transport):** Age is clearly a factor, because that is one of the reasons why premature deaths are much greater in outer London - because of a greater proportion of older people.

**Peter Fortune AM:** Because there are more older people there as well - that is what I am driving at.

**Seb Dance (Deputy Mayor for Transport):** Let us be very clear. They are dying prematurely.

**Peter Fortune AM:** I am trying to get clarity on the data; it was just a challenge for my understanding. Just going back to the consultation that we are talking about: have you been briefed on the contents, or the results of that consultation?

**Seb Dance (Deputy Mayor for Transport):** Are you referring to the consultation on the ULEZ expansion?

**Peter Fortune AM:** Yes.

**Seb Dance (Deputy Mayor for Transport):** No, I have not been briefed on the contents of that. The report will be submitted to the Mayor later, but I have not seen it.

**Peter Fortune AM:** As Deputy Mayor, you have not seen those results, and you have not asked anybody about those results?

**Seb Dance (Deputy Mayor for Transport):** I have not seen the report, no. As far as I am aware, it is not ready yet.

**Peter Fortune AM:** You would not have been able to brief the Mayor on those results?

**Seb Dance (Deputy Mayor for Transport):** Absolutely not.

**Peter Fortune AM:** Mr Mayor, you said again today that you had not seen the results from this morning.<sup>4</sup> On 13 October 2022, I think I asked you about 18 times if you had seen them, and you robustly said that you had not, so I may as well make it a clear 20, just to ask you again. Have you seen those results at all?

**Sadiq Khan (Mayor of London):** No, and I have still not seen the YouGov polling that was referred to this morning. I apologise, I have been busy; I will also look at that that somebody referred to this morning.

**Peter Fortune AM:** Do either of you recall a mayoral briefing in late September that would have come to you, talking about the triple threat, among other things? Would you recall that mayoral briefing?

**Seb Dance (Deputy Mayor for Transport):** Apologies; I have had many mayoral briefings on the triple threat and I am not sure what you are referring to.

**Peter Fortune AM:** I am thinking about the contents of the report that was sent to you on 28 September 2022. Do you remember the contents of it?

**Seb Dance (Deputy Mayor for Transport):** I would have to get back to you on that as I have no idea what report you are referring to. Obviously, we have a lot of discussions about the triple threats, air quality, congestion and climate change.

**Peter Fortune AM:** And other things of course. OK, this is information that we are going to get at some point as a result of the Freedom of Information (FOI) requests, so we will see what was in it.

**Seb Dance (Deputy Mayor for Transport):** Of course.

**Peter Fortune AM:** Seb, have you started any work on marketing for the decision for the ULEZ?

**Seb Dance (Deputy Mayor for Transport):** No, I have certainly not done any marketing work on a decision that has not been taken yet.

**Peter Fortune AM:** There are no meetings booked, or anything to talk about it at all before taking a decision?

**Seb Dance (Deputy Mayor for Transport):** Not as far as I am aware, but I would be happy to check my diary for any meetings on ULEZ. There is certainly nothing at the basis of a decision which, as I say, has not been made yet.

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<sup>4</sup> I understand this to be a reference to a question put to the Mayor by AM Fortune during a session of [Mayor's Question Time](#) earlier that day, in which he had asked whether the Mayor had seen the results of a YouGov poll, [commissioned by the GLA Conservative group](#), which reportedly found that 60% of respondents opposed the proposed ULEZ expansion. The poll results had also been published earlier that day. The Mayor's answer was that he had not seen the poll.

**Peter Fortune AM:** Once you have seen the report, how long do you think it will take you to make a decision? Or, Mr Mayor, sorry - to you, Mr Mayor, how long will it take you to make a decision?

**Sadiq Khan (Mayor of London):** I want to do it as quickly as I can, it just depends how detailed the report is. In the past, I have had reports which are quite straightforward; you read the report and you make a decision pretty quickly. I suspect this will be a detailed, long report, from what you are saying about the numbers who have responded - you mentioned The Telegraph article before. I am hoping I can do it speedily, but I do not want to give you a time in case I cannot meet it. It is proper that I give it the attention it deserves, and that could be some time, but I simply do not know.

**Peter Fortune AM:** Thank you very much for your time.

43. Subsequently there was an exchange between Caroline Pidgeon AM and the Mayor:

**Caroline Pidgeon MBE AM:** I have a couple more questions specifically for you. I am obviously aware that this decision about extending the ULEZ to cover the whole of London is dependent on the amendment to your MTS today, so that you cannot be legally challenged. It is your decision to make; you as Mayor of London. As Liberal Democrats, we have responded to your consultation, encouraging you to look at a comprehensive scrappage scheme, to look at more investment in public transport in outer London, and potentially, to have a longer lead-in time for this London-wide scheme to help Londoners be able to get there. Are those the sorts of things you will be considering as part of your decision-making process?

**Sadiq Khan (Mayor of London):** If those are the points you have made in the consultation, they should be in my report that comes to me in the next few weeks. I would be surprised if they are not in the report that comes to me, and I am sure those are some of the things that the independent consultants and TfL will take on board when they make their report known to me. I simply do not know; I have not seen the report in relation to that.

44. The [minutes](#) of the plenary meeting record that AM Rogers proposed the following motion which was debated by the Assembly:

*"That the Assembly ~~notes the~~ hereby resolves to reject the Mayor's proposed revision to the Mayor's Transport Strategy.*

*That, whilst there are differing views within this Assembly on the merits of the proposed changes, this Assembly is not persuaded by the argument put forward by the Mayor's office as to why information about the outcome of the public consultation has not been shared with the Assembly in advance of its consideration of the MTS proposal.*

*This Assembly urges the Mayor to recall that under Section 42b of the GLA Act 1999 (as amended), the Assembly has statutory powers to reject revisions to Mayoral strategies.*

*This Assembly believes that transparency in decision making is always important, but in this instance the Assembly is not only conducting scrutiny but is exercising decision making powers.*

*This Assembly therefore asserts that it is reasonable that it would expect to have the best available information on the consultation responses in order to fulfil these responsibilities.*

*In the absence of this information, this Assembly rejects the revision and invites the Mayor to publish the report on the consultation responses before asking the Assembly to endorse his proposal.”*

45. This motion was defeated, 14 votes to 9. All nine members of the Conservative group voted in favour; all nine Labour members, both Liberal Democrat members and the three Green Party members voted against. Following the defeat of that and a subsequent motion, the Assembly resolved, again, 14 votes to 9 (along the same party lines) not to reject the proposed revision to the MTS.

46. It is worth noting that AM Berry, the chair of the Transport Committee, in [formally responding](#) to the proposed revision, expressed that committee’s (majority) view that:

*“We are very disappointed about the fact that the consultation results were not published. We were not persuaded by the argument put forward by the Mayor as to why they should not be in the public domain for the Assembly to make its recommendations based, on the full knowledge of the facts. We think that transparency in decision-making is important, and we today are going to be decision-makers.*

*In considering these proposals, we need to take into account it is likely there was significant opposition expressed by those who responded to the consultation ...”*

However, notwithstanding her disappointment that the consultation results had not been published, she voted against AM Rogers’ motion to reject the revision to the MTS.

#### *EIR release*

47. In January 2023, Emma Best AM and Andrew Boff AM (both members of the Conservative group on the GLA) obtained disclosure (through a request under the Environmental Information Regulations 2004) of 134 pages of internal GLA and TfL documents between July and October

2022 concerning the ULEZ consultation. These documents were included with AM Rogers' complaint.

48. The BBC reported on this disclosure under the headline "*London ULEZ: Mayor's officials accused of manipulating plans*" on 17 January 2023.<sup>5</sup> The article reported on allegations made by the Conservative GLA group that the "*City Hall officials tried to 'manipulate' the consultation process*" and that

*"... documents they have obtained through freedom of information requests show the mayor was given a rundown on the findings two weeks before he denied knowledge of them at a session of mayor's question time at City Hall in October.*

*Extra advertising and polling were paid for to boost support for the scheme while thousands of responses from campaigners who were against it were excluded, it is alleged."*

#### *Judicial review*

49. The Assembly having decided not to reject the proposed revision to the MTS, a detailed and lengthy submission was made to the Mayor for him to decide whether or not to confirm the ULEZ expansion on 18 November 2022. The final report to the Mayor<sup>6</sup> on the ULEZ Consultation (which was itself one of four supporting papers presented to the Mayor) ran to 307 pages, not including 14 supporting appendices. The Mayor decided to confirm the ULEZ expansion (by making the 2022 Order) on 24 November 2022.
50. The Mayor's decision was the subject of a judicial review challenge brought by a number of outer London boroughs. The claim included two grounds of challenge alleging that two specific aspects of the ULEZ Consultation had been unlawful. A separate ground related to the treatment of the organised responses – this issue having attracted so much controversy following the publication of the *Evening Standard* and *Telegraph* articles in September 2022 – was rejected by the court at a preliminary stage on the basis that it was "*unarguable*". The Mayor's briefing on 29 September 2022 did not feature at all in the grounds of challenge.

51. The claim was [dismissed](#) and the ULEZ expansion came into effect on 29 August 2023.

#### Assessment

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<sup>5</sup> BBC, "[London ULEZ: Mayor's officials accused of manipulating plans](#)" (17 January 2023)

<sup>6</sup> [Report to the Mayor: Our proposals to help improve air quality, tackle the climate emergency, and reduce congestion by expanding the ULEZ London-wide and other measures \(scheme consultation\).](#)

52. Having made the findings set out above, it is now necessary to determine whether the allegations in the complaint are proven.

*Allegedly false and dishonest statements made on 13 October and 17 November 2022 (allegations 1.1-1.6)*

53. The first part of the complaint alleges that six statements made by the Mayor at Mayor's Question Time on 13 October 2022 and the London Assembly Plenary meeting on 17 November 2022 were "*false and dishonest*". In his complaint, AM Rogers highlighted the briefing to the Mayor which took place on 29 September 2022 "*in which the consultation results were included. It was therefore false and dishonest for the Mayor to state he was not aware of the results.*" This part of the complaint also alleged that "*his most senior staffers ... were regularly sent updates during the final weeks of the consultation process, and in some cases before that.*"

54. I can deal with the second element – relating to the weekly updates – briefly. In paragraph 11 above, I described the firewall between the Mayor and his officials which Mr Bellamy had explained to me and which I accept was maintained while the ULEZ Consultation was underway. Therefore, although it is clear that senior GLA and TfL officials were receiving regular updates during the consultation period, I am satisfied that these updates were not shared with the Mayor at the time. This is important because allegations 1.3 and 1.4 both relate to questions put to the Mayor by AM Fortune which specifically related to the period when the ULEZ Consultation was live.<sup>7</sup> Therefore the Mayor's answers – that he had not seen any results of the ULEZ Consultation while it was ongoing – were accurate. Accordingly I would not uphold these allegations.

55. The first element – relating to the briefing on 29 September 2022 – is more complex. This was the first time when something resembling the "results" of the ULEZ Consultation was shared with the Mayor. I accept the Mayor's point that the content of the presentation was essentially a "*working summary of the progress [TfL officials] had made on the consultation responses at that point.*" I also accept his point that this work was "*not a full account of the consultation responses, following the proper and necessary analysis*" and that the "*complete and final*

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<sup>7</sup> "During the consultation period, were you at any point briefed on how it was going? Or did you get any information about the results as they stood at a certain period in time?"; "At no point between the consultation opening on 20 May [2022] to it closing on 29 July [2022] did you have a meeting, or did anybody tell you the current state of play of those results?"; "At no point did anybody tell you, 'This is the percentage result at this point; these are the results for, these are the results against; these are the results from inner London, these are the results from outer London'?"

*account of the consultation*” was not provided to the Mayor until 18 November 2022, when he received the submission which included the 307-page *Report to the Mayor*.

56. On the other hand, the presentation was expressly described as being about the “*London-wide ULEZ, MTS and Road User Charging consultation results*” and the word “*results*” was used throughout. Although the presentation was careful to flag that it was being provided, essentially, for information only and that “*full details and recommendations*” would be provided in due course, in my view these were “*results*” of the ULEZ Consultation. Clearly they were not the *final* results – as the disclaimer in the presentation noted, they were potentially subject to “*minor changes as final data continues to be analysed*” – and, as Mr Bellamy pointed out, they were headline figures rather than the detailed qualitative and quantitative analysis of the responses that the Mayor would need (and was in due course given) to make a properly-informed decision. Nonetheless, TfL officials must have judged that they had sufficient information about the ULEZ Consultation to make it worthwhile briefing the Mayor.

57. In his response to my draft report on behalf of the Mayor, Mr Bellamy challenged my finding in paragraph 56 above that the Mayor was presented with “*results*” of the ULEZ Consultation. He wrote:

*“It is not clear how information that is not final and did not cover a large proportion of the information submitted by the public during the consultation process could be considered to represent the ‘results’ of the consultation, regardless of how that slide pack was labelled.”*

I respectfully disagree. It is clear from the content of the presentation that it provided a high-level analysis of the responses which had been received during the ULEZ Consultation (while making it clear that a more detailed account would follow in due course). Therefore this was clearly a presentation about results from the ULEZ Consultation. That was evidently the view of the officials who gave this presentation because they described it as such. The fact that the presentation did not address all of the issues arising from the ULEZ Consultation (such as how bulk consultation responses would be treated) does not detract from the basic fact that it did address some of those issues.

58. The transcript of Mayor’s Question Time on 13 October 2022 (paragraph 35 above) shows that the first three questions AM Fortune asked the Mayor were whether he had “*seen or been briefed on the results of the consultation*” (allegation 1.1), whether he had had any “*meetings regarding the results of that consultation*” and whether he had “*seen the results of the consultation*” (allegation 1.2). Unlike the questions in allegations 1.3 and 1.4, these questions were not asked with reference to any particular period of time. The Mayor’s answers were, respectively, that he had not seen or been briefed on the results, that he had attended a TfL

Board meeting earlier that week in which there had been some discussion about the ULEZ Consultation and that he had not seen the results of the ULEZ Consultation.

59. The transcript of the London Assembly Plenary session on 17 November 2022 (paragraph 42 above) shows that AM Fortune referred back to this line of questioning before asking whether the Mayor had “*seen those results at all?*” The Mayor’s response was “No”.

60. On balance, I do not consider that the Mayor’s answers to these four questions were “dishonest”. However, I do consider they were misleading, because he did not acknowledge the briefing he had been given on 29 September 2022:

(a) I accept that, when formulating his response to these oral questions, the Mayor had in mind the distinction between the “*working summary*” – which he had seen – and the “*complete and final account of the consultation*” – which he had not. As I have noted above, there was clearly an important difference between these two documents;

(b) however, it is also clear that he had seen results of the ULEZ Consultation in some form by the time he gave these answers. As a result, his flat denial when asked if he had seen “*the results*” – which gave the impression he had not seen *any* results at all – was not completely accurate. If he had said something along the lines of, “*I have not seen the final results but I have been provided with a working summary of the consultation responses*”, that would have been a fairer reflection of his state of knowledge at the time.

61. In other words, I am satisfied that, when the Mayor answered “no” to these questions, he did so because he believed that the questions referred to the “final” results of the ULEZ Consultation, rather than the “working summary”. I therefore conclude that he did not intend to give a false or untruthful answer and so was not being dishonest.<sup>8</sup> However, his failure to expressly qualify his answers – by acknowledging that he had nonetheless seen a working summary of the results – meant that they were misleading.

62. Giving misleading answers to the Assembly could, in principle, constitute a breach of paragraph 5 of the Code (disrepute).<sup>9</sup> However, in this case, I do not consider that any of his answers breached the Code:

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<sup>8</sup> This addresses Mr Bellamy’s suggestion, in his response to my draft report, that “*Using the word ‘misleading’ or stating that the Mayor’s statements were not completely accurate could imply that the Mayor had deliberately made a statement in order to lead others to believe something that was not true.*”

<sup>9</sup> Strictly speaking, the principle of “honesty” in paragraph 1(4) of the Code does not apply in these circumstances: the Code’s definition of the principle of “honesty” – “*Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest*” – is not relevant to these allegations. The Code adopts



- (a) although *technically* misleading, the Mayor's answers were not – in my view – *seriously* misleading, in that they did not conceal information of any great significance. The fact that, two months after its close, the Mayor had received a briefing on the headline results of the ULEZ Consultation is not surprising. Indeed, I agree with Mr Bellamy's point that bringing in the Mayor at this stage was a sensible step in the policy-making process, rather than leaving it to the very end of that process. I also note that this briefing was not identified as giving rise to any possible error of law in the judicial review claim, which is an indication that it was, ultimately, a fairly minor event;
- (b) I also bear in mind that the main controversy swirling around the ULEZ Consultation at this time related to allegations that the process was being manipulated to exclude certain responses, particularly those opposed to the ULEZ expansion. This issue was not addressed in the Mayor's briefing on 29 September 2022 and, although he was no doubt aware of the allegations by the time of these meetings (they had been the subject of press reporting), I am satisfied that he had no specific knowledge of how TfL would deal with these responses in its final analysis of the ULEZ Consultation when he gave his answers. These allegations, it seems to me, were the real context for the questions asked by AM Fortune<sup>10</sup> and the Mayor's answers to these questions did not conceal anything related to this particular controversy;
- (c) I attach some weight to the fact that each of these answers was given to oral questions. In other words, the Mayor was required to give his answers on the spot. Although he is a very senior and experienced politician, and no doubt was well briefed for each of these meetings, in my view he is still entitled to some allowance for giving imperfect answers to questions asked in this context. More importantly, I accept Mr Bellamy's point that the Mayor and his team were understandably concerned about giving the impression of having predetermined his decision<sup>11</sup> (something also reflected by the firewall described in paragraph 11 above). I can therefore understand why the Mayor had in mind the distinction between provisional and final consultation results, albeit he failed to clearly articulate that distinction in his answers.

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the original definition by the [Committee on Standards in Public Life](#) in 1995. However, in 2013, the Committee [revised](#) the definition to "*Holders of public office should be truthful*".

<sup>10</sup> "So, Mr Mayor, referring back to the report that was in The Telegraph, can I ask, have you seen or been briefed on the results of the consultation?"

<sup>11</sup> e.g. the Mayor's answer to AM Fortune's questions during Mayor's Question Time on 13 October 2022: "*Because I think giving a running commentary is unwise. It can give the impression you have predetermined the outcome and it means that due process isn't followed.*"

63. In his response, Mr Bellamy argued that my conclusions in paragraph 62 above are inconsistent with my conclusion that the Mayor's answers were misleading. I disagree. With the benefit of hindsight, as I have noted, it is evident that the Mayor's answers to these questions ultimately did not really matter. However, that does not alter the basic fact they were, of themselves, misleading.

64. In his response to my draft report, AM Rogers only made comments in response to my conclusion in paragraph 60(b) above (i.e. he did *not* seek to challenge my conclusion that the Mayor had not been dishonest). He argued that, contrary to my conclusion in paragraphs 62(a) and (b), the Mayor's comments were "*seriously*" – as opposed to merely "*technically*" – misleading:

*"... it very much did matter that the Mayor was misleading in his comments. At that meeting the Assembly was due to decide whether or not to alter a binding Mayoral Strategy, upon which there had been the largest consultation in TfL's history, whose preliminary results were known and on which the Mayor had seen a 'working summary'. These preliminary results were highly relevant to the decision the Assembly was being asked to make and had the Mayor acknowledged that he had seen a 'working summary' of this, entirely new avenues of questioning would have been opened up, the outcomes of which could have had a material impact on the Assembly's ultimate decision.*

*I would say that the significance of this is enough to push this from being 'technically' misleading to being 'seriously' misleading, per your classifications... It does not matter what the controversy of that particular day happened to be; the Mayor's answers to Peter Fortune's questions – which, as you acknowledge, were misleading – effectively closed off entire lines of highly relevant questions that could have had a material impact on a rare Assembly decision.*

*The question I think you need to ask is this – if the Mayor had acknowledged that he had seen a working summary of the consultation results, would that have opened the possibility of a change to the Assembly decision on the MTS and therefore on the Mayor's ability to implement ULEZ expansion? The answer is clearly that it would have done, because Assembly Members would then have been able to ask further questions on the working summary the Mayor had seen, eliciting otherwise undiscovered information that could have changed the way Members voted. That the Mayor was not open about this is, in my view, a serious issue."*

65. I do not accept this argument. It is clear from the statement made by AM Berry on behalf of the Transport Committee (paragraph 46 above), and from the contributions made by other Assembly Members during the question-and-answer session, that no one was in any doubt

that ULEZ Consultation results existed. Indeed, this was the premise of AM Rogers' motion, which called for those results to be published. Therefore the Mayor's answers did not mislead any Assembly Members into believing that no results existed. In answer to the question posed by AM Rogers in his response, it is clear that the answer is "no". The fact that AM Berry – who had expressly criticised the Mayor for not publishing the ULEZ Consultation results prior to the vote – nonetheless voted against a motion calling for their publication strongly indicates that the vote would have been exactly the same, even if the Mayor had acknowledged having seen the headline results.

66. For these reasons, I would **not** uphold allegations 1.1, 1.2, 1.5 or 1.6.

*Allegedly misleading statements made on 13 October 2022, 2 November 2022 and 17 November 2022 (allegations 2.1-2.10)*

67. Allegations 2.1 and 2.2 relate to answers given by the Mayor at Mayor's Question Time on 13 October 2022 to questions asked by AM Rogers as to whether the ULEZ consultation process would be "*open ... to public scrutiny so people can see how these responses [the organised responses] are being processed*". The Mayor's answers were that TfL would be "*completely transparent*" about the consultation process.

68. In support of these allegations, AM Rogers stated in the complaint that

*"the Mayor's senior staff were aware that 5,270 responses from the Living Streets and Fair Fuel UK/British Drivers campaigns were being excluded from the main consultation results. These were not disclosed publicly at the time, nor in the final report. It was misleading for the Mayor to suggest that TfL would be fully transparent about the methodology in the final report."*

69. I do not accept these allegations. Firstly, as I have found in paragraph 62(b) above, I am satisfied that the Mayor had not been briefed on how TfL was handling organised responses by the time he gave these answers. Secondly, the Mayor had not seen TfL's final consultation report at the time he gave these answers, so it is difficult to see how else he could have answered this question. TfL did, as the Mayor said in his answers to these questions, eventually publish a detailed report on the ULEZ Consultation and background evidence (the *Report to the Mayor*; see Appendix 2, pp.7-313. Section 4.3 of that report (pp.45-50) provided a detailed explanation as to how organised responses had been processed – and, to my mind, made clear that organised responses expressing copy-and-paste statements of support and opposition had been included in the qualitative analysis of responses to the survey (so all were ultimately taken into account) and that only those organised responses which had referred to

specific survey questions would be included in the quantitative analysis. Whether or not that approach was sound is not for me to judge, but I do note that a complaint that the ULEZ Consultation results had been skewed by excluding a particular category of organised responses was described as unarguable in the judicial review claim.

70. Allegation 2.3 is that the Mayor's answer to the question whether he had received a briefing on the ULEZ Consultation results during the consultation period was misleading because he did not mention the briefing he received on 29 September 2022. Self-evidently, that allegation is unfounded because the briefing only occurred after the ULEZ Consultation period had ended. In any event, I have found that the Mayor was not briefed on the ULEZ Consultation while it was underway (paragraph 54 above).
71. Allegation 2.4 is that the Mayor's answer to AM Fortune's question about "*results that were coming from outside London*" was misleading because he did not mention the 29 September briefing. I do not accept this allegation. The briefing had not identified the geographical location of any respondents participating in the ULEZ Consultation. In his answer to this question, the Mayor referred to comments on social media as the source of this information. In his written response (Appendix 2, p.5), he included a screenshot of a post published by Fair Fuel UK of a heatmap showing how organised responses had been submitted from across the UK. Consequently I accept his point that this information was a matter of public record and therefore his answer to this question was not misleading.
72. Allegations 2.5 and 2.6 relate to questions asked by AM Fortune about TfL's decision to commission targeted digital marketing towards "*demographics more likely to support the ULEZ expansion*" during the ULEZ Consultation period. In his complaint, AM Rogers wrote: "*It is unlikely that the Mayor would not have been made aware of this by his senior staff, given a spending decision was involved, and so it is likely that these statements were misleading.*" I have already found (in paragraph 12 above) that the Mayor was not involved in this decision to commission this marketing. Nor was it mentioned in the 29 September briefing. Therefore I am satisfied that the Mayor's answers – "*I am not aware*" – were not misleading.
73. Allegation 2.7 relates to a question asked by AM Fortune about whether the Mayor received any briefings on the ULEZ Consultation during the consultation period. For the reasons given in paragraph 54 above, I do not consider that the Mayor's answer – that he was "*not aware*" – was misleading: the Mayor did not receive any briefing on the ULEZ Consultation until after it had concluded.
74. Allegation 2.8 relates to a question asked by a member of the public at People's Question Time, with reference to the *Telegraph* report alleging that two-thirds of ULEZ Consultation respondents opposed the proposed ULEZ expansion. As I found in paragraph 32 above, the

*Telegraph* report was based on weekly summaries which had been circulated among GLA and TfL officials but were not shared with the Mayor. The briefing to the Mayor on 29 September 2022 did refer to question 8 of the consultation survey (*“What do you think of the implementation date?”*) and reported that 59% of respondents believed that the ULEZ expansion *“should not be implemented at all”*. It also referred to a YouGov poll commissioned by the GLA and reported that *“responses indicate that 51% of Londoners support ULEZ implementation.”* The briefing did not, however, mention the two-thirds figure quoted in the *Telegraph* article or address the allegation that responses to question 8 had been manipulated during the consultation process. Furthermore, at the time of answering this question, the Mayor had not yet received the final report on the ULEZ Consultation. Therefore, in my view, his answer – *“I’ve not seen the report yet in relation to the responses, so I’m not sure where those numbers come from in relation to those who’ve responded”* – was not misleading.

75. Allegation 2.9 relates to a written question asked by Nick Rogers AM at Mayor’s Question Time on 17 November 2022. This question asked the Mayor what *“consideration [had he] given to the concerns raised about your ULEZ expansion and the consultation process?”* The part of the Mayor’s response which is the subject of this allegation is his statement that *“only responses that contravene TfL’s policies on work-related violence and aggression are excluded.”* However, the transcript shows that the next sentence of the Mayor’s response was: *“I am simply unable to comment further on feedback from consultation responses and the content of the report until I receive it.”* I repeat that the Mayor had not seen the report by the time he gave this answer and that the report, when it was published, did explain how organised responses had been processed. Paragraph 4.2.4 (Appendix 2, p.41) stated that 24 abusive responses had been excluded from the consultation analysis. Therefore I do not consider this answer to have been misleading.

76. Allegation 2.10 relates to a question asked by AM Pidgeon at the London Assembly Plenary meeting on 17 November 2022 about whether the Mayor would be considering certain mitigations as part of his decision-making process. The Mayor’s answer (which is not cited in full in the complaint) was:

*“If those are the points you have made in the consultation, they should be in my report that comes to me in the next few weeks. I would be surprised if they are not in the report that comes to me, and I am sure those are some of the things that the independent consultants and TfL will take on board when they make their report known to me. I simply do not know; I have not seen the report in relation to that.”*

77. On this allegation, I accept the point made by Mr Bellamy in his response to my draft report:

*“Two of the issues AM Pidgeon raised – the scrappage scheme and the lead-in time – were covered to some extent in the information presented to the Mayor on 29 September 2022, but the Mayor did not know whether and how those issues would be covered in a Report he had yet to see. One of the issues AM Pidgeon raised – more investment in public transport in outer London – was not covered in the information presented to the Mayor on 29 September 2022.*

*The principle was, however, that any issue raised in consultation responses would be included in TfL’s Report to the Mayor, so the Mayor responded on that basis that all three issues would likely be included in the Report. AM Pigeon did not ask the Mayor what he had and had not seen at any prior stage, but what he would be considering at a future stage. This consideration would be based on TfL’s Report to the Mayor, and the Mayor accurately responded that he expected those issues to be included in that Report, but that he had not seen that Report at that time.”*

For these reasons, with which I agree, I do not accept this allegation.

### Conclusion

78. For these reasons, my recommendation to the Monitoring Officer is that none of the allegations made in the complaint have been made out and therefore that the Mayor did **not** breach the Code in relation to any of his answers to questions put to him at Mayor’s Question Time on 13 October 2022, People’s Question Time on 2 November 2022 or the London Assembly Plenary meeting on 17 November 2022.

**Matt Lewin**  
Cornerstone Barristers

17 January 2024

## Appendices

|             |   |               |
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| Appendix 1  | Complaint   | 16 Jan 2023   |
| Appendix 2  | Mayor's written response  | 31 March 2023 |
| Appendix 3  | ULEZ Consultation weekly summary  | 14 July 2022  |
| Appendix 4  | AGIQ presentation: "Consultation update"  | 20 July 2022  |
| Appendix 5  | "ULEZ Consultation update"  | 28 July 2022  |
| Appendix 6  | ULEZ Consultation weekly summary  | 5 Aug 2022    |
| Appendix 7  | AECOM Consultation report   | 19 Oct 2022   |
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| Appendix 9  | "London-wide ULEZ, MTS and Road User Charging consultation results: Briefing for the Mayor" | 29 Sept 2022  |
| Appendix 10 | 29 September 2022 meeting note  | 13 Oct 2022   |
| Appendix 11 | Telegraph report  | 30 Sept 2022  |
| Appendix 12 | AM Rogers' response to draft report   | 22 Nov 2023   |
| Appendix 13 | David Bellamy's response to draft report  | 8 Dec 2023    |