

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3383

Guidance on TfL's exercise of road user charging powers

Executive summary:

The Mayor may issue guidance to TfL regarding the discharge of its road user charging functions. Guidance was issued in 2007, and supplementary guidance was issued in 2022 (see MD2987; together, the Guidance).

The Mayor wishes for TfL to review the Guidance, and consider any amendments that would better reflect TfL's approach when:

- undertaking consultations in comparable circumstances
- setting charges for TfL services, in particular public passenger transport fares.

TfL's review may include considering whether a new procedure could apply to making routine user charge increases. (For the Congestion Charge, this could be similar to the annual procedure by which the Mayor reviews and sets public passenger transport fares.)

Following this review, the Mayor requests that TfL asks the public and stakeholders for their views on any of the proposed changes to the Guidance. The Mayor will then take those views into account when deciding whether to make any changes to the Guidance.

For TfL to undertake these tasks, it is necessary for the Mayor to delegate certain powers to TfL.

Decision:

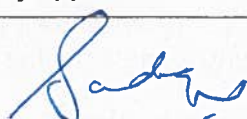
That the Mayor authorises TfL to exercise, on his behalf, the functions in section 34, and paragraph 34 of Schedule 23 to, the Greater London Authority Act 1999 (GLA Act), and any related provision of the GLA Act, for the purpose of reviewing the Guidance; preparing drafts of any proposed changes to it; and undertaking a consultation on any proposed changes. TfL must exercise the functions in accordance with the conditions of delegation set out in Appendix A. For the avoidance of doubt, the Mayor retains the function of issuing any revised guidance to TfL, pursuant to paragraph 34 of Schedule 23.

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:

21/5/25

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1. Transport for London (TfL) is the charging authority of the central London Congestion Charging scheme; and the Ultra Low Emission Zone (ULEZ) and Low Emission Zone (LEZ) charging scheme. These road user charging schemes have been established and operate pursuant to section 295 of, and Schedule 23 to, the Greater London Authority Act 1999 (the GLA Act).¹
- 1.2. Proposal 20 of the Mayor's Transport Strategy (the MTS) requires that TfL keep these schemes under review, to ensure they prove effective in furthering or delivering MTS policies and proposals. As such, changes to the road user charging schemes are proposed from time to time. These aim to address the changing nature of the challenges facing London; and mean the objectives of both schemes can be better met. In turn, this helps facilitate the delivery of the MTS.
- 1.3. Schedule 23 provides that the Mayor may issue guidance to TfL regarding the discharge of its road user charging functions. TfL must then have regard to any guidance issued when exercising those functions.
- 1.4. Guidance was issued in 2007, and was revised by supplementary guidance in 2022 (together, the Guidance). The Guidance sets out, amongst other things:
 - the Mayor's expectations as to when TfL should consult on proposed changes to a road user charging scheme
 - the procedure associated with making and publicising a scheme's rules, or variations to them
 - the minimum length of any consultation period.
- 1.5. The Guidance recognises that proposed changes to a scheme need scrutiny that is proportionate to:
 - the changes proposed
 - the impacts that they are likely to have
 - the volume and complexity of consultation materials.
- 1.6. The Mayor wishes TfL to review the Guidance and consider whether the consultation arrangements stated in the Guidance remain appropriate in light of TfL's approach to consultations in other areas.
- 1.7. The Mayor would also like TfL to consider whether the Guidance could be amended to allow a more streamlined approach to routine user charge increases. TfL has, to date, consulted on all proposed increases to a scheme's user charges – except when a temporary increase was introduced during the COVID-19 pandemic. This differs from the procedure which is followed when setting other TfL charges, notably fares for public passenger transport services. These are set annually by the Mayor without consultation. This annual revision cycle for fares stands in contrast to the ad hoc review of road user charges, with increases made at infrequent intervals and at higher increments.
- 1.8. Amended Guidance could set out the circumstances in which the Mayor would not expect TfL to consult on increases to user charges – if they have been set in line with the factors set out in the Guidance. It could also provide for routine administrative or procedural changes to a scheme to be made without consultation. TfL is invited to consider how such changes might be reflected in the

¹ The Silvertown and Blackwall Tunnels User Charging scheme was established pursuant to the Silvertown Tunnel Order 2018. It is not within scope of the Guidance, or this Mayoral Decision.

Guidance. The legal requirement for user charges to be specified in the scheme order, and for the changes to be confirmed by the Mayor, would still apply.

2. Objectives and expected outcomes

- 2.1. Revisions to the Guidance would aim to ensure it remains fit for purpose given developments in TfL's approach to consultation since the initial Guidance was issued in 2007. As currently drafted, the Guidance impacts TfL's ability to effectively manage a scheme. If left unchanged, it may hinder the achievement of the scheme's objectives and delivery of the MTS. The purpose of the review is also to consider whether a streamlined procedure for making routine, incremental annual changes to the Congestion Charge should be introduced. Historically, there have been large percentage increases at infrequent intervals.
- 2.2. The Mayor expects that any proposed changes to the Guidance will not compromise the public and stakeholders' ability to scrutinise major and minor road user charging changes when they are proposed from time to time. Any proposed new approach to routine user charge increases to the Congestion Charge is intended to create consistency with the procedure which applies when TfL's public passenger transport fares are set where consultation is not part of the process. Consulting on relatively routine, incremental, annual increases is unlikely to be necessary or appropriate, or aligned with the approach taken in other similar circumstances. Any new proposed approach should consider how best to ensure that the cost of driving remains proportionate to the cost of using public transport, in compliance with the MTS objectives. It should also ensure that the net proceeds of a charging scheme, which must be used to deliver the MTS, are protected against inflation. Any new approach could not be used to make fundamental or major changes to the nature and scope of a charging scheme.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010 (the Equality Act), as a public authority, the Mayor must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and any other conduct prohibited by or under the Act; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not when exercising his functions. This is known as the Public Sector Equality Duty. Protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination and other prohibited conduct under the Act only).
- 3.2. No equality impacts arise directly from the Mayor asking TfL to review the Guidance and to undertake a consultation on the proposed revisions on behalf of the Mayor. The equality impacts of any proposed revisions to the Guidance will be assessed at the appropriate decision-making stage.

4. Other considerations

Risks and issues

- 4.1. As the ultimate responsibility for any revision to the Guidance remains with the Mayor, notwithstanding the delegation to TfL, no risks have been identified with TfL undertaking the delegated activities.

Links to Mayoral strategies and priorities

4.2. The MTS outlines the Mayor's vision for transport in London including policies and proposals that will contribute to achieving it. The Mayor, London borough councils and other bodies exercising statutory functions must have regard to the MTS when exercising relevant functions. TfL must exercise its functions for the purpose of implementing or facilitating the MTS. The central aim of the MTS 2018 is to increase the active, efficient and sustainable mode share of trips in London to 80 per cent by 2041.

4.3. The MTS contains the following proposal:

"Proposal 20: The Mayor, through TfL, will keep existing and planned road user charging schemes, including the Congestion Charge, Low Emission Zone, Ultra Low Emission Zone and the Silvertown Tunnel schemes, under review to ensure they prove effective in furthering or delivering the policies and proposals of this strategy."

4.4. It is intended that any proposed revision to the Guidance will create efficiencies in the procedures that apply when TfL seeks to review the Congestion Charge and the LEZ/ULEZ schemes, in line with proposal 20.

Impact assessments and consultations

4.5. There is no statutory duty on the Mayor to consult when issuing any road user charging guidance to TfL. No consultation was held in 2007 when the Guidance was issued, nor in 2022 when it was revised. However, the Mayor is requesting that TfL undertakes a consultation, on his behalf, in respect of any proposed revisions. Any proposed changes to a road user charging scheme which are put forward as a consequence of any changes to the Guidance may be subject to impact assessment, if necessary.

Conflicts of interest

4.6. There are no known conflicts of interest to declare regarding those involved in the drafting or clearance of this form.

5. Financial comments

5.1. There are no direct financial implications arising from this decision for the GLA.

6. Legal comments

6.1. Paragraph 34 of Schedule 23 to the GLA Act 1999 provides that the Mayor may issue guidance to TfL as to the discharge of its road user charging functions. TfL shall have regard to the guidance when exercising those functions. It was pursuant to this power that the Guidance was issued in 2007 and the supplement was issued in 2022.

6.2. Section 38 of the GLA Act 1999 allows the Mayor to authorise TfL to exercise any of the Mayor's functions that are exercisable by the Mayor on behalf of the GLA. The Mayor wishes to delegate to TfL all of the functions that it needs to exercise in order to be able to comply with the request to review the Guidance for the purposes described in this form. The relevant functions being delegated are contained in section 34 of, and paragraph 34 of Schedule 23 to, the GLA Act. These functions are capable of being delegated pursuant to section 38. Section 38(7) gives TfL the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not TfL would otherwise have had that power and irrespective of the nature of the function. Without the delegation, TfL would not otherwise be able to comply with the Mayor's request to review the Guidance and undertake a consultation on the proposed revisions to the Guidance on his behalf.

6.3. Section 38(10) of the GLA Act requires the section 38 delegation to be in writing. The delegation is attached at Appendix A. Section 38(1) provides that the Mayor may impose conditions on any

delegations. A number of conditions are set out in the delegation annexed to this report. In addition to describing the purposes for which the delegated functions must be exercised by TfL, they include requirements to comply with any instructions or guidance issued by the Mayor, and cooperate with the GLA's Monitoring Officer (who has a duty under section 5(2) of the Local Government and Housing Act 1989 to monitor TfL's activities when it is exercising functions delegated by the Mayor).

7. Planned delivery approach and next steps

- 7.1. TfL will review the Guidance and prepare suggested revisions, with a view to seeking feedback from the public and stakeholders. The suggested amendments to the Guidance would then be submitted to the Mayor, together with any responses received. Any revisions to the Guidance are expected to be published by the Mayor by the end of 2025.

Appendices and supporting papers:

Appendix A – Delegation.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) 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 be published either within one working day after it has been approved or on the defer date.

Part 1 – Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included 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:

Philippa Borrowman has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Seb Dance has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Mayoral Delivery Board

This decision was agreed by the Mayoral Delivery Board on 19 May 2025.

✓

CHIEF FINANCE OFFICER:

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

Signature:

Philippa Borrowman

Date:

21/05/2025

CHIEF OF STAFF:

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

Signature:

D. Bellamy

Date:

21/05/2025

APPENDIX A – DELEGATION TO TfL IN RESPECT OF ROAD USER CHARGING GUIDANCE

1. Pursuant to section 38 of the Greater London Authority Act 1999 (the GLA Act), the Mayor authorises Transport for London (TfL) to exercise the functions in section 34 of, and paragraph 34 of Schedule 23 to, the GLA Act and any related provision of the GLA Act for the purposes of:
 - a. reviewing the road user charging guidance previously issued to TfL pursuant to paragraph 34 of Schedule 23 in 2007 (as supplemented in 2022; “the Guidance”). In doing so, TfL should consider whether:
 - i. the Guidance reflects TfL’s approach to consulting in comparable circumstances including whether the minimum consultation periods for ‘major’ and ‘minor’ proposed variations to a road user charging scheme set out in the Guidance remain appropriate;
 - ii. the Guidance could provide for a new, streamlined procedure for making routine user charge increases without consultation and with the option of doing so on an annual basis. Any new procedure should consider how road user charges could be set in proportion with increases to public passenger transport fares and/or inflationary increases so as to facilitate the objectives of the scheme and the delivery of the MTS, whilst also ensuring that consultation continues to occur for major changes. The procedure would need to reflect the legal requirements that the charges must be specified in the order containing the scheme and that the order must be confirmed by the Mayor in order to have effect;
 - iii. administrative and procedural changes might also be made by way of a routine variation procedure without consultation.
 - b. prepare any proposed changes to the Guidance;
 - c. seek the views of the public and stakeholders on any proposed changes to the Guidance;
 - d. submit the proposed changes together with any representations received from the public and stakeholders to the Mayor for his consideration and decision.
2. The delegation is made subject to the following conditions:
 - a. TfL will make clear in any public consultation materials that any proposals are those identified by TfL and are subject to Mayoral consideration and decision;
 - b. TfL will provide me and the Deputy Mayor for Transport with reports on progress and developments relating to the review and preparation of any proposed changes to the Guidance;
 - c. TfL will comply with the instructions stated in paragraph 1 above or which are subsequently given to TfL by me, a Deputy Mayor or any officer I nominate;
 - d. TfL shall at all times afford the GLA’s Monitoring Officer all reasonable co-operation and access to such documents and facilities as may be required from time to time in respect of that person’s functions under s 5(2) of the Local Government and Housing Act 1989.


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Signed: Mayor of London

Date: 21/5/25

