



Sian Berry AM
City Hall
The Queen's Walk
LONDON SE1 2AA

Sadiq Khan
City Hall
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LONDON SE1 2AA

7 May 2019

Dear Sadiq,

Dealing with privacy considerations in plans for the expanded ULEZ

I am writing to raise concerns about potentially serious omissions I have observed in the consultation and decision-making process for plans to expand the London Ultra Low Emission Zone (ULEZ) to the north and south circular roads in 2021.

In the process so far I do not believe that issues of privacy, including the collection, retention and sharing of details of vehicle movements, has been dealt with properly, and that there is an urgent need for further impact assessments and consultation on these issues before plans can proceed.

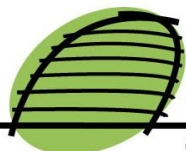
My principal concerns are that Privacy or Data Protection Impact Assessments that should have been carried out were not, and that no mention of the additional data collection, retention and sharing proposed by Transport for London (TfL) as part of the scheme was made in any of the consultation documents.

I also believe that any routine and comprehensive data sharing of this new data with police for non-national security work should be subject to consultation and a new Mayoral Decision, rather than relying on the decision to share ANPR data from the existing TfL camera network data that was made in 2015. This new decision should also be consulted upon with the public.

In summary, I believe the main issues are:

A) Both the extent and character of data collection is changing

The expanded ULEZ will bring about both a quantitative and qualitative change in the data on vehicle movements being captured.



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In particular, the cameras needed to enforce the new expanded zone will take in a large number of mainly residential areas that have not been surveilled in this way before – the TfL ANPR camera network being limited at present to central London, as well as major roads and junctions outside this area, to enforce the existing LEZ.

TfL has said in response to journalist questions that an estimated additional 672 ANPR-enabled camera locations will be installed across the expanded zone up to the north and south circular roads, adding to approximately 1,300 existing cameras – more than a 50 per cent increase.

According to a September 2018 MOPAC decision on new data storage procurement, the MPS is expecting to record an additional nine million number plate ‘reads’ per day in future: “chiefly due to the TfL camera strategy.”^{1,2}

Most of these new camera locations will be in areas of London where very little of this kind of surveillance has been done before, in contrast to the highly surveilled central Congestion Charging Zone (CCZ), which has had high levels of TfL camera coverage since 2003, when the Congestion Charge was introduced. There is also a much higher population in inner London compared with central London - estimates in the ULEZ consultation supporting information give 209,000 residents in Central London, compared with 3.8 million in the expanded zone.³

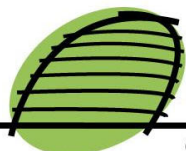
Londoners who live in the CCZ already had the chance to comment on their journeys to and from home being captured by TfL and shared with and retained by police in the consultation that led to MD1439 in 2015. However, the planned expansion will bring in many more homes and capture many more of Londoners’ daily journeys around their homes and neighbourhoods.

Therefore, the expansion of camera coverage in the expanded ULEZ represents both a significant quantitative change in the amount of data planned to be collected and a qualitative impact on Londoners’ privacy in terms of the types of citizens and types of privacy-sensitive activities being recorded.

B) A Privacy or Data Protection Impact Assessment should have been carried out

I believe that the extent and nature of new data collection planned under the expanded ULEZ at least required a Privacy Impact Assessment under the Data Protection Act 1998, but that in fact under the new General Data Protection Regulation (GDPR) and Data Protection Act 2018, a Data Protection Impact Assessment was required.⁴ The new legislation came into force on 25 May 2018, and the Mayoral Decision to proceed with the expanded ULEZ was made on 6 June 2018.

However, neither assessment was carried out ahead of MD2305, which confirmed the expanded ULEZ to begin in 2021.



The Integrated Impact Assessment (IIA), which was published during the consultation period in December 2017, considers the expanded camera network only in the context of its impact on crime reduction and community safety.⁵ It falsely states that the cameras only record ANPR data, when they also record images for enforcement (although only the ANPR data is currently shared with police for crime purposes).

The document concludes that there is a neutral impact on crime and makes no consideration of privacy at all.

“2.2.31 The enforcement infrastructure for the stronger LEZ proposal would primarily be made up of the existing LEZ cameras. The expanded ULEZ will require additional cameras in the Inner Zone, however these are only for number plate recognition and not close circuit television. The additional cameras are therefore not relevant to community safety or crime.

As such, there is unlikely to be an increased level of surveillance that could deter illegal driving and other antisocial behaviour, nor would the implementation of the combined proposal be likely to cause any increase in crime or fear of crime. As such, health effects associated with crime and community safety are not expected to change as a result of implementation of the stronger LEZ and extended ULEZ.”

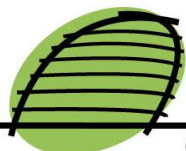
C) No information was given on data collection or retention as part of the consultation

I have examined all the information provided as part of the consultation, and the only mention of the use of cameras I can find is on page 13 of the Supporting Information Document (reference 3), which simply says data will be checked but nothing about its retention or sharing:

“Cameras will read vehicle number plates as they are driven into and within the zone to check against a database and establish whether or not a vehicle is compliant with the requirements of the scheme.”

None of the organisations asked to take part in the consultation were ones concerned with human rights or privacy, so it is not surprising that none responded. None of the questions in the consultation related to the collection of data in new areas of London or from a significantly expanded camera network, so it is not surprising that Londoners themselves did not raise concerns either.

Some of the organisations that responded, including some borough councils, appear from the Report to the Mayor to have asked questions about cameras and enforcement, but no details are given and no answers provided other than a comment about ‘design work’ being needed.⁶



D) Data sharing with police is an additional consideration and may require a separate Mayoral Decision

Currently, images and data on vehicle movements are only kept by TfL for up to two months,⁷ However, in a 2015 Mayoral Decision (MD1439), made after a public consultation that included a Privacy Impact Assessment, it was agreed to share all the ANPR data (not images) with the Metropolitan Police Service (MPS), which would store it for a further two years.^{8,9}

There is no mention in any of the consultation documents for the expanded ULEZ that the data from the new cameras would be shared with police in the same way and kept for two years. From the information above in the IIA it is clear this is the assumption made by the assessors, and when TfL was asked about this by the Mayorwatch website, a spokesperson said it is a 'working assumption' the data will be shared in the same way.¹⁰

I believe there is therefore also a second, separate question of whether a further Mayoral Decision and impact assessment would be needed to authorise the new extent of data sharing with police for general crime purposes.

Next steps

As you know, I am passionate about protecting Londoners from filthy air and a strong supporter of the ULEZ scheme – in fact my group has asked for it to be expanded even further and brought forward.

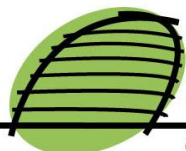
I am also concerned that decisions about data collection and retention are made properly, without unnecessary intrusion on privacy or sharing, and with the utmost transparency and care for Londoners' privacy. As a member of the Oversight Committee I took part in an investigation into these issues in 2017 and heard from TfL that it was also committed to these principles.¹¹

However, without further action from you I am concerned that the decision to proceed with the expanded ULEZ with data issues unexamined will not be sound and could be challenged.

This should include:

- looking at details of data collection and sharing
- full transparency and impact assessments
- further public consultation specifically on these matters.

I urge you to rectify these omissions as soon as possible, and make any alterations to data collection and sharing plans that are necessary.



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This need not cause any delay to the project. The details of data retention and sharing could be reviewed and decided now rather than having been decided upon at the same time as the wider principles of how the scheme works. Changes to these aspects of the scheme need not involve changes to infrastructure and would simply involve back-end alterations to the storage and sharing of data.

Without action, however, there would be a grave risk of the ULEZ being challenged and this essential measure to protect Londoners' health not being brought in as soon as it is needed.

I hope you will consider this request and write back to me with your views and any action planned as soon as possible.

Yours sincerely,

Sian Berry
Green Party Member of the London Assembly

¹ Transport for London expects to take 21m ANPR images each day to enforce the Congestion Charge and expanded Ultra-Low Emission Zone, MayorWatch, Sept 2018 <https://www.mayorwatch.co.uk/transport-for-london-expects-to-take-21m-anpr-images-each-day-to-enforce-the-congestion-charge-and-expanded-ultra-low-emission-zone/>

² PCD450 decision document, MOPAC, Sep 2018
https://www.london.gov.uk/sites/default/files/pcd_450_part_1_anpr_nas_management_server.pdf

³ Changes to Low Emission Zone and Expansion of the Ultra Low Emission Zone - Supporting information document for consultation phase 3b, November 2017 https://consultations.tfl.gov.uk/environment/air-quality-consultation-phase-3b/user_uploads/ulez-consultation-appendix-i.pdf

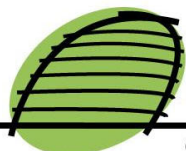
⁴ Guidance on Data Protection Impact Assessments from the Information Commissioner's Office: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>
And from the Surveillance Camera Commissioner: <https://www.gov.uk/government/publications/data-protection-impact-assessments-for-surveillance-cameras>

⁵ Ultra Low Emission Zone - Further Proposals. Integrated Impact Assessment. Jacobs, December 2017
https://consultations.tfl.gov.uk/environment/air-quality-consultation-phase-3b/user_uploads/ulez-consultation-appendix-j.pdf

⁶ Report to the Mayor, Theme J, Implementation, June 2018
https://www.london.gov.uk/sites/default/files/appendix_b1_consultation_report_-_june_2018.pdf

⁷ Data retention public information on road user charging, TfL, accessed May 2019
<https://tfl.gov.uk/corporate/privacy-and-cookies/road-user-charging>

⁸ Mayoral Decision MD1439 Delegation to Transport for London (TfL) to grant the Metropolitan Police Service (MPS) direct access to Automatic Number Plate Recognition (ANPR) data, Jan 2015
<https://www.london.gov.uk/decisions/md1439-delegation-transport-london-tfl-grant-metropolitan-police-service-mps-direct-access>



⁹ MD1439 Privacy Impact Assessment

https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Appendix%20B%20-%20Metropolitan%20Police%20-%20ANPR%20Privacy%20Impact%20Assessment.pdf

¹⁰ Transport for London expects to take 21m ANPR images each day to enforce the Congestion Charge and expanded Ultra-Low Emission Zone, MayorWatch, Sept 2018 <https://www.mayorwatch.co.uk/transport-for-london-expects-to-take-21m-anpr-images-each-day-to-enforce-the-congestion-charge-and-expanded-ultra-low-emission-zone/>

¹¹ Letter to the Mayor. Personal data in the GLA Group. London Assembly Oversight Committee, November 2017 https://www.london.gov.uk/sites/default/files/personal_data_in_the_gla_group_-_letter_from_chair_to_mayor.pdf

