

Report title

Payment of the ULEZ Charge for Personnel Based in Charging Zone

Report to

Commissioner's Board
Fire and Resilience Board

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Report by

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Summary

Commissioner's Board considered a report on this issue at its meeting on 30 January 2019 (LFC-0125) and agreed a set of recommendations for trade union consultation. Fire and Resilience Board considered a similar report at its meeting on 12 February 2019 (FRB-0030), although by that time it was known that the initial proposals for consultation would need to be amended to bring them in line with the Mayor's environmental policy framework.

Following these meetings trade union consultation took place, and there were further discussions with GLA officers given the centrality of the Ultra-Low Emissions Zone (ULEZ) to the Mayor's environmental agenda.

The trade union consultation has now concluded, and arising from this consultation, and the discussions with GLA officers, a revised set of recommendations are proposed for adoption by the London Fire Commissioner (LFC).

The London Fire Commissioner Governance Direction 2018 requires the London Fire Commissioner to seek prior approval of the Deputy Mayor for Fire and Resilience before a commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices. The cost of the recommendations within this report is projected to exceed £150,000 described in paragraphs 11-15.

Pending Deputy Mayor approval, the recommendations within this report are being implemented under Director delegated authority. This is because the ULEZ has now been implemented, and so relevant staff are incurring the ULEZ charge. Trade union consultation on these issues concluded only recently, and the view was taken that, in the interests of good employee and industrial relations, ULEZ charge reimbursements and provision of the loan and advance set out below should not be delayed. The expenditure limit of Director delegated authority in relation to the recommendations is expected to be reached around the end of September 2019.

Recommended Decision

The London Fire Commissioner agrees:

1. The Brigade reimburses the ULEZ charge for watch-based staff within the ULEZ area who incur the charge travelling to work and who may be required to undertake standbys for a 12-month period, with reimbursements ending on 7 April 2020.
2. The Deputy Commissioner, Director of Operations, is given delegated authority to reimburse additional staff/vehicles where there is a clear business case, for a period no longer than 12 months (up to no later than 7 April 2020).
3. The Brigade reimburses the ULEZ charge for watch-based staff within the ULEZ area who incur the charge travelling to work but who are not required to undertake standbys for a three-month period, with reimbursements ending on 7 July 2019.
4. The Brigade reimburses the ULEZ charge for watch-based staff who incur the charge travelling to work when undertaking Pre-Arranged Overtime (PAO) within the ULEZ area for a three-month period only, with reimbursements ending on 7 July 2019. This to apply irrespective of the employee's base station and the station at which they undertake PAO.
5. The Brigade offers an interest-free loan of up to £9,000, repayable in monthly instalments over a four year period, to staff included in recommendations one, two and three who do not have a ULEZ-compliant vehicle, for the purposes of purchasing a ULEZ-compliant vehicle. This offer will only be open until 8 October 2019, six months after the commencement of the ULEZ.
6. The Brigade offers an advance of £125 to staff included in recommendations one, two and three to cover the first two tours of ULEZ charges. This advance to be repayable in two monthly instalments once the staff cease to be eligible for reimbursement of the ULEZ charge for the home to work journey.
7. The Brigade reimburses the ULEZ charge for the small group of middle managers (currently three) based within the ULEZ area who incur the charge travelling to work for a 12 month period, with reimbursements ending on 7 April 2020.
8. The Brigade reimburses the ULEZ charge for staff (all occupational groups) who incur the charge in the course of their duties when undertaking urgent managerial business which requires the use of a vehicle (as a business expense) for a 12 month period, with reimbursements ending on 7 April 2020.

Changes from initial proposals

- Recommendation 1: The recommendation in the LFC-0125/FRB-0030 reports was to reimburse this group until 24 October 2021.
- Recommendation 2: There is no change in principle to this recommendation from the LFC-0125/FRB-0030 reports, although the maximum period of potential reimbursement is now aligned to 7 April 2020.
- Recommendation 3: The recommendation in the LFC-0125/FRB-0030 reports was not to reimburse this group for any period.
- Recommendation 4: This is a new recommendation; this issue was not addressed within the LFC-0125/FRB-0030 reports.

- Recommendation 5: The recommendation in the LFC-0125/FRB-0030 reports was for this loan to be repayable over 3 years, and for the loan to be accessible only by staff included in the first bullet point above.
- Recommendation 6: This is a new recommendation.
- Recommendation 7: There was no specific recommendation in the LFC-0125/FRB-0030 reports in relation to this group, but it was noted that the position adopted in 2018 was that this group would not be reimbursed the ULEZ charge for any period for the home to work journey; there would only be reimbursement, as a business expense, when attending incidents or otherwise undertaking urgent managerial business.
- Recommendation 8: The recommendation in the LFC-0125/FRB-0030 reports was to reimburse this group for these reasons until 24 October 2021.

Background

1. Reports LFC-0125, considered at Commissioner's Board on 30 January 2019, and FRB-0030 considered at Fire and Resilience Board (FRB) on 12 February 2019, provided full background to the implementation of the Ultra-Low Emissions Zone (ULEZ) on 8 April 2019. In summary, from this date vehicles need to meet strict emission standards, or a daily charge of £12.50 must be paid to travel within the area of the ULEZ (the current congestion charge zone). The ULEZ operates 24 hours a day, seven days a week.
2. The ULEZ is an important Mayoral initiative to help improve air quality. Transport for London (TfL) state that road transport is the biggest source of the emissions damaging health in London.
3. On 30 January 2019 Commissioner's Board agreed a set of recommendations involving time-limited reimbursement of the ULEZ charge, for home to work travel, for a cohort of watch-based staff based within the ULEZ area (see 'Changes from initial proposals' above). The main drivers for this were:
 - A recognition that the Brigade currently reimburses the congestion charge for watch-based staff based within the congestion charge/ULEZ area, which would have led to an expectation of some period of ULEZ reimbursement;
 - A desire to minimise disruption to standby movements; and
 - To give relevant staff a transitional period to obtain a ULEZ-compliant vehicle if they wish to continue driving to work, but not incur the ULEZ charge.
4. Watch-based staff who are based within the ULEZ area are those at Dowgate, Lambeth and Soho fire stations, plus Lambeth River staff, the Chemical, Biological, Radiological and Nuclear (CBRN) team based at Lambeth, and the Fire Investigations Unit (FIU) based at Dowgate. Of these, the staff not required to undertake standbys are Lambeth River, CBRN, the FIU, and the Watch Managers at the three fire stations.
5. At FRB on 12 February 2019, it was noted that the Greater London Authority (GLA) would not approve a reimbursement period extending to 24 October 2021 given both the environmental and financial implications. London Fire Brigade officers were asked to have discussions with GLA officers with responsibilities for the environment in order to arrive at an agreed position.

Outcomes of the trade union and GLA consultation

6. Consultation with the Fire Brigades Union (FBU) covered the 'Recommendations' made in this report. All the recognised trade unions were consulted on Recommendation 8, and in addition the Fire Officers Association (FOA) along with the FBU officers were involved in discussions about Recommendation 7.
7. As indicated above, the recommendations were also discussed with GLA officers. GLA officers confirmed that a reimbursement period extending to October 2021 was too long, and a compromise position of a maximum 12-month period of reimbursement was arrived at. The trade unions were duly updated, and whilst this was not met with enthusiasm, the trade unions understood the reasons for the reduced period of reimbursement. At the same time, and given the late stage at which the consultation took place, it is now proposed that watch-based staff based within the ULEZ area who are not required to undertake standbys are reimbursed for a three-month period given their expectations of some period of reimbursement. The original proposal put to the trade unions was for no period of reimbursement for this group.
8. In addition, and in order to accommodate a number of trade union concerns, the repayment period for the interest-free loan to purchase a ULEZ-compliant vehicle is proposed to be extended from three years to four years, and that those staff not required to undertake standbys are eligible for this loan. Under the original proposals, only the group undertaking standbys were eligible for the loan. It is also proposed to offer a £125 advance to both groups of staff, to cover the first two tours of ULEZ charges, fully repayable in two monthly instalments when the staff cease to be eligible for ULEZ charge reimbursement.
9. It is also proposed that watch-based staff undertaking Pre-Arranged Overtime (PAO) within the ULEZ area are reimbursed the ULEZ charge for three months only. Staff undertaking PAO are not sent out on standby. This issue arose during the trade union consultation and was not considered when the original set of recommendations was drawn up.
10. Arising from these discussions, the trade unions representing operational middle managers asked Brigade officers to review the position arrived at in 2018 under which there would be no reimbursement of the ULEZ for the home to work journey for those based in the zone, only as a business expense when attending incidents or otherwise undertaking urgent managerial business. The trade unions pointed out that middle managers are required to have their vehicles available at work at all times, and it was clarified that there are only currently three operational middle managers based in the ULEZ area who do not have ULEZ-compliant vehicles. Given the small numbers, and the desirability for consistency across the operational staff groups, it is proposed that this group of staff are reimbursed the ULEZ charge for the home to work journey for a 12-month period, i.e. until 7 April 2020.

Financial implications

11. As advised in LFC-0125/FRB-0030, a survey of watch-based staff based within the ULEZ area has been undertaken to ascertain the financial impact of ULEZ reimbursement. An updated analysis of the returns shows that of the 115 staff based at these stations who are required to undertake standbys, 43 currently drive to work in a non-ULEZ-compliant vehicle. Amongst the 92 staff not required to undertake standbys, 48 currently drive to work in a non-ULEZ-compliant vehicle. The other staff either drive to work in a ULEZ-compliant vehicle or come to work using a different mode of transport. Given that for every tour of duty the ULEZ charge will be incurred five times (as the two night shifts straddle three calendar days), the 12-month cost of reimbursement for watch-based staff based within the ULEZ area, taking into account that one group is only to be reimbursed for three months, is currently estimated at £220k. This includes the 47 per cent cost of reimbursing the employee's tax and national insurance contribution on the ULEZ charge as

this is a taxable benefit, and the 13.8 per cent employer's national insurance contribution. This is based on an average 30 shifts leave per year.

12. Other absences which could reduce this figure, e.g. sickness, may lead to standbys in, which may or may not incur an offsetting ULEZ charge reimbursement, and hence have been discounted for the calculation. This figure will reduce as and when staff exercise the option of the interest-free loan to purchase a ULEZ-compliant vehicle. The new proposed provision to reimburse those undertaking PAO for three months is not expected to add to the overall cost, as PAO will only be needed if another member of staff is absent.
13. The 12-month cost of reimbursing the three middle managers based in the zone is estimated at £14.5k; this group have a higher unit cost of reimbursement as they are in a higher tax bracket, and therefore a higher uplift is required given this is a taxable benefit. The total projected annual cost of the recommendations within this report is therefore £234.5k.
14. Against the projected annual cost of £234.5k, the Brigade will save the current cost of reimbursing the T-charge (the less stringent emissions charge which was replaced by the ULEZ on 8 April 2019). However, based on data from the Finance department this amount is negligible (ca. £150 p.a.).
15. The additional cost of reimbursing those who incur the ULEZ charge when undertaking urgent managerial business (as a business expense) is difficult to estimate, however it is anticipated that these costs can be contained within existing departmental expenses budgets. It is estimated, for example, that spend in 2018/19 on reimbursing the congestion charge incurred on Brigade business, as opposed to when commuting, was £2,500, and ULEZ reimbursements are likely to be of a similar order: although the ULEZ charge is higher, and operates 24/7, not all vehicles entering the ULEZ area on Brigade business will incur the ULEZ charge.

Finance Comments

16. This report considers the implications of the introduction of the ULEZ charge from 8 April 2019 and makes recommendations following trade union consultation as set out in the report.
17. If the ULEZ charge was reimbursed for relevant staff in line with the recommendations set out in this report, this would be at an estimated one-off cost of £234.5k in 2019/20, including tax and national insurance reimbursements.
18. This report also proposes that an interest free loan of up to £9,000 be offered to support affected staff to switch to ULEZ-compliant vehicles, but depending on the uptake this could impact on cash flow and any interest receipts. Take-up of the loan will however reduce the cost of ULEZ reimbursements
19. The ULEZ charge replaces the T-charge from 8 April 2019. The cost of reimbursing the T-charge has been very low, with only ca. £150 incurred on the T-charge annually. Therefore, there is no expectation of savings in T-charges to offset the ULEZ charges.
20. There is also a risk that costs could vary from the estimates provided above including for reasons such as leave, sickness and other Brigade business.
21. Funding of £207k has been set aside in the budget for 2019/20 for ULEZ reimbursements; this was based on earlier estimates when the trade union consultation had not concluded. The actual

expenditure against this amount will be monitored as part of the regular financial position reports.

Workforce Comments

22. The recommendations within this report have been consulted on with the trade unions as set out in the report.

Legal Comments

23. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
24. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience. Paragraph (b) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...". The Deputy Mayor's approval is accordingly required for the London Fire Commissioner to incur the expenditure set out in the recommendations to this report.
25. The statutory basis for the actions proposed in this report is provided by the Fire and Rescue Services Act 2004, under which the Commissioner must secure the provision of personnel and may take any action they consider appropriate to do this.

Sustainability implications

26. The ULEZ has been introduced to improve air quality in London, which has been linked to thousands of premature deaths in London per year. Air quality in London continues to exceed the legal limits set that are based upon the World Health Organisation's guidance.
27. The LFC has been provided with a sunset period to achieve the ULEZ standard for fleet vehicles based outside of the central zone until October 2021. All non-specialist vehicles based inside the zone are expected to have achieved compliance by the April 2019 introduction. Reimbursement of ULEZ charges delays the incentive the charge is intended to provide for individuals to upgrade to cleaner vehicles or choose other forms of transport. The interest free loan offered may however counteract this, as it is sufficient to cover the costs of numerous models of second hand vehicles that would be compliant.

Equalities implications

28. The Public Sector Equality Duty, and the potential impacts of the recommendations on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) has been considered. There are no direct impacts in respect of those with protected characteristics as the only variables are (a) whether or not journeys are undertaken into or within the ULEZ area, and (b) whether the relevant staff do or do not have a vehicle which is already ULEZ-compliant.
29. An analysis of the watch-based staff working at the three fire stations within the ULEZ area (including the CBRN, FIU and Lambeth River teams, see paragraph 4 above), shows the following in relation to race and gender:

Table 1: Race/gender impact of ULEZ on watch-based staff working within the ULEZ area

	Race			Gender		Total
	White	BME	Not Known	Male	Female	
FFs-WMs in LFB as whole	3790 (85.3%)	591 (13.3%)	61 (1.4%)	4122 (92.8%)	320 (7.2%)	4442 (100%)
FFs-WMs at three stations (including River/CBRN/FIU)	180 (87.0%)	22 (10.6%)	5 (2.4%)	196 (94.7%)	11 (5.3%)	207 (100%)
No ULEZ reimbursement required	95 (81.9%)	18 (15.5%)	3 (2.6%)	110 (94.8%)	6 (5.2%)	116 (100%)
Three-month ULEZ reimbursement recommended	45 (93.8%)	1 (2.1%)	2 (4.2%)	46 (95.8%)	2 (4.2%)	48 (100%)
12 month ULEZ reimbursement recommended	40 (93.0%)	3 (7.0%)	0 (0%)	40 (93.0%)	3 (7.0%)	43 (100%)

30. Table 1 shows that a slightly lower percentage of watch-based staff working at the three stations are Black or Minority Ethnic (BME) (10.6%) compared to the organisation as a whole (13.3%), and a slightly lower percentage are women (5.3%, compared to 7.2% across the LFB).
31. Taking the watch-based staff at the three stations as the control group, a higher percentage of BME staff are represented in the cohort where no ULEZ reimbursement is required (15.5%), whereas the percentages of men/women in this cohort are virtually identical to the control group. Ultimately, the impact is for those staff who will be required to meet the ULEZ charge, as opposed to those staff who are unaffected by the ULEZ charge, and using this measure, there is a lower impact on BME staff as a higher proportion of BME staff either already have a ULEZ-compliant vehicle, or use other means to travel to work. There is no discernible impact in relation to gender. It could be argued that the group affected by the ULEZ charge are receiving a benefit from the Brigade under the proposals, i.e. a (time-limited) subsidy of the ULEZ charge. However this benefit is not profitable for those individuals, and within either three or 12 months they will potentially have greater personal costs to bear unless they switch to a ULEZ compliant vehicle, in line with Brigade and Mayoral environmental policies.

Consultation

Name/role	Method consulted
Director of Corporate Services	Circulation of draft report
Head of Executive Support	Circulation of draft report