

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2987

Title: Revision of the Mayor's Transport Strategy and road-user charging guidance

Executive summary:

The Mayor is proposing to revise his transport strategy (MTS) to provide for road user charging's (RUC) role in addressing the triple challenges of toxic air pollution, the climate emergency and congestion and, as a first step, the potential London-wide expansion of the Ultra Low Emission Zone (ULEZ). Given Transport for London's (TfL's) expertise on transport matters, the responsibilities it has in implementing the MTS, and its status as the charging authority for the ULEZ, the Mayor wishes to direct TfL to draft the revised MTS text; arrange for an integrated impact assessment (IIA) to be produced; and consult the public and stakeholders on his behalf. The Mayor delegates to TfL the powers that are required in order for it to comply with the direction.

In addition, the Mayor wishes to issue supplementary guidance to TfL as to the consultation on the proposed changes to the ULEZ scheme rules. A consolidated approach to consultation is to be adopted that will see the changes to the ULEZ scheme, as set out in a draft variation order, consulted on alongside the proposed revised MTS text.

Decision:

The Mayor

1) directs TfL to:

- prepare a draft revised MTS text that will provide for RUC's role in addressing the triple challenges of toxic air pollution, the climate emergency and congestion, including the potential expansion of the ULEZ London-wide, and arrange for an IIA to be undertaken
- consult the public and stakeholders on the draft revised text and the IIA
- undertake all related post-consultation tasks, including preparing and providing a report to the Mayor on the consultation
- take all the steps necessary relating to publicity and distribution following the Mayor's publication of the revised text

2) authorises TfL to exercise, on his behalf, all the functions TfL requires in order to be able to comply with the direction

3) issues the supplementary guidance set out in Appendix C to TfL, regarding arrangements for the consultation on varying the ULEZ scheme rules that would give effect to the proposed London-wide expansion of the ULEZ. It is issued pursuant to section 34 of Schedule 23 to the Greater London Authority Act 1999.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

16/5/22

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Mayor has previously announced his intention to take bold action to urgently tackle toxic air pollution; tackle the climate emergency; and cut congestion in London.¹ In order to reduce traffic and associated emissions by the amount required to address these three challenges, a significant shift is needed away from petrol and diesel vehicle use towards walking and cycling, public transport and cleaner vehicles. On 4 March 2022, the Mayor stated his intention for TfL to consult on the proposal to expand the Ultra Low Emission Zone (ULEZ) London-wide, with the longer-term aim of introducing a new, simple and fair road-user charging (RUC) scheme using more sophisticated technology.²
- 1.2. The ULEZ is a RUC scheme established and operated by Transport for London (TfL) pursuant to Schedule 23 to the Greater London Authority Act 1999 (GLA Act 1999). The Mayor's Transport Strategy (MTS) is critical to the exercise of TfL's RUC functions; Schedule 23 provides that RUC schemes may only be made if they: are considered desirable or expedient to facilitating the achievement of the policies and proposals in the MTS; and are in conformity with the MTS. These conditions also apply when TfL proposes to vary the rules of an established RUC scheme such as the ULEZ.
- 1.3. The current MTS, published in March 2018, provides that RUC is a relevant mechanism for securing the reduction of emissions from vehicles (policy 6). Proposal 24 of the strategy sets out the various steps that the Mayor wishes TfL to take forward to accelerate the switch to cleaner vehicles. These include the introduction of ULEZ in 2019 in central London, and its expansion to inner London by 2021. Each of the initiatives specified in proposal 24 have now been implemented and the proposal is effectively time-expired, although it serves as a record of the efforts that have been made to reduce emissions from vehicles.
- 1.4. It is now considered necessary to revise the MTS and replace proposal 24 with a new proposal that will:
 - set out the triple challenges of toxic air pollution, the climate emergency and congestion and the relevance of road user charging to addressing them
 - provide for the expansion of the ULEZ London-wide
 - update the objectives of the ULEZ scheme in light of changing legal air quality limits and WHO guidelines and the need to protect human health from the effects of toxic air pollution notwithstanding that legal limits may be met.
- 1.5. The procedure for revising the MTS is subject to statutory requirements, including that stakeholders and the public are consulted; a strategic environmental assessment is undertaken; an environmental report that complies with relevant regulatory requirements is produced; and, prior to publication, the revised text is deposited before the London Assembly, who may move a motion to reject it.
- 1.6. As with the current MTS, the Mayor wishes to direct TfL to draft the proposed MTS revision text. This is because of TfL's transport expertise, its responsibility for implementing the proposed changes to the MTS, and its role as charging authority for established and future RUC schemes. The direction will also provide that TfL is to: arrange for relevant impacts of the proposed revision to be assessed; and undertake the required statutory consultation. Should the Mayor wish to proceed with publishing the revision, TfL would also carry out the post-publication tasks relating to publicity and distribution of the revision. To comply with the direction, it is also necessary for the Mayor to

¹ <https://www.london.gov.uk/press-releases/mayoral/mayor-announces-bold-plans-for-a-greener-london>

² <https://www.london.gov.uk/press-releases/mayoral/mayor-sets-out-london-wide-ulez-plans>

delegate to TfL his relevant functions so that TfL can discharge them on the Mayor's behalf. The direction and delegation are attached at Appendix A.

- 1.7. TfL will consult on the proposed MTS revision and RUC proposals together, rather than in separate consultations. This is because of the common themes they cover; the urgency of implementing the proposed schemes to address the triple challenges of toxic air pollution, the climate emergency and congestion; and a desire to reduce the consultation response burden. Stakeholders and the public will be asked for their views on the draft MTS revision, which provides the policy foundation for the expanded ULEZ, and to consider the proposed variations to the rules of the RUC schemes, which will be set out in variation orders and described in the supplementary information provided as part of the consultation materials.
- 1.8. This combined approach to consultation requires the Mayor to issue new guidance to TfL pursuant to Schedule 23 of the GLA Act 1999, to which TfL must have regard. Guidance was most recently issued in 2007 and remains current (the 2007 Mayoral Guidance, attached at Appendix B). The 2007 Mayoral Guidance sets out, amongst other things, the Mayor's expectations as to when TfL should consult on RUC proposals; the procedure associated with making and publicising the order that contains a scheme's rules or variations to them; and the length of the consultation period.
- 1.9. As a RUC scheme must be in conformity with the MTS at the point that the scheme is made or varied, it is proposed that the consultation will be undertaken on the basis of a draft variation order that provides for the London-wide expansion of the ULEZ (Draft ULEZ Variation Order). The Mayor wishes to supplement the 2007 Mayoral Guidance to provide for TfL to do this (consult on the basis of a draft variation order, pending the revision of the MTS to bring the proposed variation order into conformity). The supplementary guidance in Appendix C sets out the Mayor's expectations as to the procedure TfL should follow in this scenario. The supplementary guidance adapts the suggested procedure set out in the 2007 Guidance, allowing TfL to prepare a draft major variation order and publicise its intention to make it pending revision of the MTS. The supplementary guidance provides for stakeholders and the public to have available to them the same amount of information as would usually be provided in respect of a consultation on a made variation order and the same opportunity to make representations on the changes proposed.
- 1.10. The only practical difference between the suggested procedures in the 2007 Mayoral Guidance and the supplementary guidance is that the consultation would be undertaken on the basis of TfL indicating its intention to make the Draft ULEZ Variation Order following the MTS being revised rather than the consultation being triggered by the making and publicising of the variation order. Following publication of the revisions to the MTS, TfL would make the order and submit it to the Mayor for confirmation. The sections of the 2007 Mayoral Guidance which state that TfL is to consult following the making of an order would be dispensed with provided that TfL has already consulted on its intention to make a variation order and published a draft variation order that is in materially the same form as the variation order that is ultimately made.
- 1.11. In addition to the potential London-wide expansion of ULEZ, TfL will also be consulting on other proposed changes to the ULEZ and Congestion Charging schemes and seeking views on future improvements to RUC schemes. Minor proposed changes to the Congestion Charging Scheme will be set out in a separate variation order, which TfL may make prior to commencement of the consultation, since these proposed changes are already in conformity with the MTS. TfL may have regard to the 2007 Mayoral Guidance in respect of these elements of the consultation to the extent that the Guidance applies. However, for ease and simplicity, all the proposed changes to the ULEZ scheme will be included in the Draft ULEZ Variation Order and so the supplementary guidance at Appendix C will apply.
- 1.12. The Draft ULEZ Variation Order would only be made by TfL if the Mayor decides to proceed with publishing the revised MTS text following consultation. After TfL has converted the Draft ULEZ Variation Order into a made order, it would then be submitted to the Mayor. He would be asked to decide whether to confirm it (that is, give effect to it), after considering responses to the

consultation on the proposed London-wide ULEZ expansion and all other relevant factors – including the impacts identified in the IIA and suggested mitigations.

2. Objectives and expected outcomes

MTS direction and delegation

- 2.1. The Mayor wishes to task TfL with producing the draft revised MTS text and undertaking associated activities towards achieving its possible publication, given TfL's role in implementing the MTS and, in light of the particular focus of the proposed revision, TfL's status as the charging authority for the ULEZ and potential future RUC schemes. It is anticipated that TfL's draft revised text will provide a robust policy foundation for progressing with the Mayor's ambition to address the triple challenges of toxic air pollution, the climate emergency and congestion as well as providing an immediate basis to expand the ULEZ London-wide, subject to consultation.
- 2.2. The precise direction and delegation to be issued to TfL are attached at Appendix A.

RUC Mayoral Guidance

- 2.3. The 2007 Mayoral Guidance remains current, notwithstanding that it was issued by a previous Mayor and has not been updated since 2007. The Mayor wishes to supplement certain aspects of the 2007 Mayoral Guidance so that the imminent consultation on the possible expansion of the ULEZ London-wide, and any future RUC consultations that depend on the MTS being revised, can be undertaken in an effective and lawful manner. TfL is asked to have regard to the 2007 Mayoral Guidance with the supplementary inclusions as set out in Appendix C, which are issued pursuant to paragraph 34 of Schedule 23 to the GLA Act 1999.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010 (the Equality Act), as public authorities, the Mayor and TfL must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not when exercising their 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. The equality impacts of the draft MTS revision and the Draft ULEZ Variation Order will be assessed as part of the IIA that TfL commissions (the direction issued pursuant to this mayoral decision requires that TfL arranges for an IIA to be produced in respect of the draft MTS revision). The IIA will be made available to the public and stakeholders as part of the consultation materials and provided to the Mayor, together with a report on the consultation responses and other relevant information, when he is asked to decide whether to revise the MTS and proceed with the proposed changes to the RUC schemes. No equality impacts arise directly as a consequence of the Mayor directing TfL to prepare the draft revised MTS text nor issuing supplementary guidance to the 2007 Mayoral Guidance, as would be the result of this decision. However, the equality impacts of the outputs of TfL complying with the direction and having regard to the supplementary guidance will be assessed.

4. Other considerations

Key risks and issues

- 4.1. As the ultimate responsibility for preparing and publishing the revision to the MTS remains with the Mayor, notwithstanding the direction and delegation to TfL, no risks have been identified with TfL undertaking the delegated activities.

Links to Mayoral strategies and priorities

- 4.2. As mentioned above, the Mayor has recently announced his desire for TfL to develop proposals around strengthening the use of RUC to address the triple challenges of toxic air pollution, the climate emergency and congestion; and, as a first step, to investigate the London-wide expansion of the ULEZ.
- 4.3. In 2018 when the Mayor published his Transport Strategy and the London Environment Strategy,³ he committed to support London in reaching compliance with legal limits for air pollutants as quickly as possible; going beyond the legal limits to protect human health and minimise inequalities; and becoming a zero-carbon city by 2050. He also committed to introducing London-level carbon budgets, which decrease over time. In 2020, the Mayor set a clear goal for London to be net zero by 2030 in recognition of the scale and urgency of the climate emergency.
- 4.4. The potential London-wide expansion of the ULEZ and the focus on emissions-based RUC is consistent with the Mayor's aims for London to have the best air quality of any major world city by 2050 and be a net zero-carbon city by 2030. Further changes to the MTS may be required in due course to assess the implications of the new net zero by 2030 target for London, which will require updated modelling and further revisions to the strategy itself.

Consultations and impact assessments

- 4.5. No impact assessments or consultations are required for the Mayor to make this decision.
- 4.6. Pursuant to the direction and supplementary guidance, TfL will arrange for an IIA to be produced in respect of the revised MTS and a public and stakeholder consultation will be undertaken as described above.
- 4.7. No officer involved in the drafting or clearing of this Mayoral Decision has any interests to declare.

5. Financial comments

- 5.1. There are no direct financial implications for the Greater London Authority arising from this decision.

6. Legal comments

Direction to TfL

- 6.1. Pursuant to section 155(1) of the GLA Act 1999, the Mayor may issue general and specific directions to TfL as to the manner in which it is to exercise its functions. It is necessary for the Mayor to issue a direction to TfL in respect of the revised MTS text so that the scope of activities to be undertaken by TfL when exercising the delegated functions is defined and TfL has a proper legal basis for carrying out the tasks and devoting resources to them.
- 6.2. Section 155(4) provides that any directions issued under section 155(1) must be issued in writing and notified to such officer of TfL as it may from time to time nominate to the Mayor for this purpose.

³ https://www.london.gov.uk/sites/default/files/london_environment_strategy_0.pdf

- 6.3. The direction that the Mayor wishes to give to TfL in respect of the proposed revision of the MTS may be made under section 155(1)(c) of the GLA Act. Its precise terms are attached at Appendix A.
- 6.4. Approval of the final version of revised text for submission to the London Assembly and publication is a matter that the Mayor has reserved to himself and so the direction provides for the Mayor to do these things with TfL to undertake all other associated tasks.

Delegation of Mayoral powers

- 6.5. 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 direction. Those functions are contained in sections 34, 41, 42, 43, 141, 142 and 144 of the GLA Act 1999. These functions are capable of being delegated pursuant to section 38 as, although they are stated to be exercisable by the Mayor, section 35(3) provides that a function that is conferred on the Mayor is to be taken to be a function of the Authority exercisable only by the Mayor acting on behalf of the Authority. 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 direction issued pursuant to s 155(1)(c) given TfL's powers in respect of the MTS are limited to facilitating its implementation.
- 6.6. Section 38(10) of the GLA Act 1999 requires the section 38 delegation to be in writing. It is attached at Appendix A.
- 6.7. 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. These include requirements to provide progress reports to the Mayor and the Deputy Mayor for Transport, comply with any instructions or guidance issued by the Mayor and co-operate with the GLA 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).

Guidance as to how TfL is to discharge its RUC powers

- 6.8. Paragraph 34 of Schedule 23 provides that the Mayor may issue guidance to TfL as to the exercise of any of its RUC functions. TfL shall have regard to the guidance.

7. Planned delivery approach and next steps

- 7.1. The next steps following the decision are outlined below.

Activity	Timeline
Start of public/stakeholder consultation on MTS revisions and RUC proposals for a period of 10 weeks	20 May 2022 (tbc)
TfL analyses consultation responses received from the public and stakeholders and present its consideration of these, with recommendations, to the Mayor	Summer 2022
Subject to the outcome of the consultation, MTS revisions would be laid before the London Assembly in advance of their publication	Autumn 2022
Following the publication of the revised MTS, TfL would make the Draft ULEZ Variation Order and submit it for confirmation to the Mayor. A Post-Adoption Statement related to the Strategic Environmental Assessment must also be published, setting out how environmental considerations, and the responses of consultees (including statutory consultees) have been taken into account	By end of 2022

Appendices and supporting papers:

- Appendix A: Direction and delegation
- Appendix B: 2007 Mayoral Guidance issued pursuant to Schedule 23 of the GLA Act 1999
- Appendix C: Supplementary mayoral guidance issued pursuant to Schedule 23 of the GLA Act 1999

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 either be published 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? YES**

If YES, for what reason: Deferred to coincide with launch of public and stakeholder consultation

Until what date: 20 May

Part 2 – Sensitive information

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

Catherine Seaborn has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Phil 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.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on the 9 May 2022.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

10/5/22

D. Gane

CHIEF OF STAFF:

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

Signature

Date

9/5/22

D. Bellamy