

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2397

### Title: Amendments to the Congestion Charge and Ultra Low Emission Zone Schemes

#### Executive Summary:

As part of the Mayor's commitment to tackle congestion in central London and clean up the capital's toxic air, Transport for London (TfL) has consulted on proposed changes to the Congestion Charging Scheme.

The two main proposals seek to:

- (a) remove the exemption from Private Hire Vehicles except for those which are designated as wheelchair accessible and being used to fulfil a private hire booking; and
- (b) replace the existing Ultra Low Emission Discount with a new phased discount that has progressively tighter criteria and which will ultimately cease to be offered in 2025.

The consultation also included a minor change to the boundary at Old Street which also affects the Ultra Low Emission Zone Scheme and minor administrative changes.

There were 10,150 responses received to the consultation from the public and businesses in total, and 51 stakeholder responses. Just over half (55%) of all respondents said it was important to remove the PHV exemption. Among PHV drivers who responded, this figure was 9%, with 90% opposing this proposal. 39% of all respondents stated the proposal to replace the ULED with the CVD was important, and 44% said it was not, with 17% not expressing a strong view. Details of the consultation responses are included in the Report to the Mayor (Appendix 2 of the MD). The Mayor is asked to decide whether the consultation proposals should be implemented.

#### Decision:

That the Mayor:

1. Confirms the Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018 (Appendix 1) with the modifications recommended by TfL having considered:
  - a) the responses to the consultation proposals; TfL's Report to the Mayor on the consultation (Appendix 2) and its appendices which include the CEPA Report, an Integrated Impact Assessment, an alternative report and CEPA's further response to it and TfL's appraisal of alternative proposals; and
  - b) the content of, and advice given in, this form in particular, regarding the various matters for decision, including whether further information is required before making a decision and whether further consultation, or the holding of any inquiry, public or otherwise, is necessary or appropriate before making a decision; and the recommended modifications to the Variation Orders; and
2. Authorises TfL to fulfil the requirements of paragraph 2(5) of the Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and paragraph 2(3) of the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018 (publication in the London Gazette of the appointed day on which the Old Street boundary change will have effect) on his behalf. Prior to publishing the notice, TfL is required to consult the Deputy Mayor for Transport on the proposed appointed date.

#### 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:

17/12/18

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

### Decision required – supporting report

#### 1. Introduction and background

- 1.1. The Congestion Charging Scheme was introduced in central London in February 2003. The Congestion Charging Scheme imposes a charge on all motorised vehicles being driven within the Congestion Charge Zone ('CCZ') from 7am to 6pm, Monday to Friday, unless they are exempt or registered for a 100% discount. The current level of the charge is £11.50 per charging day (reduced to £10.50 if paid by the autopay method). The primary objective of the Congestion Charging Scheme is to reduce traffic and congestion in the CCZ.
- 1.2. In the short term, the Congestion Charging Scheme was very effective in achieving its objectives with congestion in the CCZ reduced by 30% and circulating traffic by 15%.<sup>1</sup> Over time, however, congestion in the CCZ has increased to levels not seen since the introduction of the Congestion Charging Scheme in 2003 although without the Congestion Charging Scheme congestion would be far worse than it is now. One reason for this increase in congestion is the composition of the traffic. Another factor is the reallocation of road space to prioritise healthier, more efficient and sustainable modes such as walking, cycling and buses.
- 1.3. In comparison to other schemes in the UK and abroad, the Congestion Charging Scheme has a considerable number of exemptions and substantial discounts (90% or 100% of the charge). Potentially eligible vehicles include those owned by residents, used by blue badge holders (up to two nominated vehicles are allowed), ultra low emission vehicles, taxis and Private Hire Vehicles ('PHVs'). Overall, only around 50% of vehicles currently seen in the CCZ during charging hours are liable to pay the full congestion charge.<sup>2</sup>
- 1.4. The Mayor's Transport Strategy, published in March 2018, requires that the Congestion Charging Scheme and other road user charging schemes are kept under review to ensure that they remain effective to meet their objectives and the policies and proposals contained in the Strategy. Transport for London ('TfL'), as the charging authority of the Congestion Charging Scheme, has recently consulted on the following proposed changes to the Congestion Charging Scheme and a minor, related proposed change to the Ultra Low Emission Zone Scheme ('the ULEZ Scheme'), together referred to as the 'Consultation Proposals':
  - a) Removal of the exemption that applies to PHVs except those which are designated wheelchair accessible and are being used to fulfil a private hire booking;
  - b) Replacement of the Ultra Low Emission Discount ('ULED') with a new, phased discount to be known as the Cleaner Vehicle Discount ('CVD');
  - c) A minor boundary change at the Old Street roundabout (to be replicated in respect of the ULEZ Scheme); and
  - d) Correction of out of date references to the Driver and Vehicle Licensing Northern Ireland, licence display requirements and the ULEZ Scheme commencement date in the Greater London (Central Zone) Congestion Charging Order 2004 ('the Scheme Order'), the legal instrument which established the Congestion Charging Scheme and contains the rules which govern it.
- 1.5. The Consultation Proposals are reflected in the Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018 which were made by TfL on 29 June 2018 (together referred to as "the Variation Orders"; attached at Appendix 1). If confirmed by the Mayor pursuant to this request, these Variation Orders will give legal effect to the Consultation Proposals.

<sup>1</sup> <http://content.tfl.gov.uk/impacts-monitoring-report-2.pdf>

<sup>2</sup> <http://content.tfl.gov.uk/mts-challenges-and-opportunities-report.pdf>

- 1.6. TfL invited members of the public and stakeholders to have their say on the Consultation Proposals through a twelve week consultation which ran between 6 July 2018 and 28 September 2018. TfL has analysed the consultation responses, and other public and stakeholder engagement, and has prepared a report for the Mayor's consideration ('the Report to the Mayor', attached at Appendix 2).
- 1.7. The Mayor is asked to consider this form in conjunction with the Report to the Mayor (Appendix 2) which includes, amongst other documents, the Scheme Description and Supplementary Information document (Appendix B to the Report to the Mayor at Appendix 2), the Integrated Impact Assessment (Appendix B to the Report to the Mayor at Appendix 2), the CEPA Report (Appendix B to the Report to the Mayor at Appendix 2), a report submitted by a consultation respondent and CEPA's response to it (Appendices D and E respectively to the Report to the Mayor at Appendix 2), and TfL's response to alternative proposals submitted by a consultation respondent (Appendix G to the Report to the Mayor at Appendix 2).

## **2. Summary of the proposals**

- 2.1 This section summarises the Consultation Proposals and draws on information which is included in the Scheme Description and Supplementary Information which is attached (Appendix B to the Report to the Mayor at Appendix 2).
- 2.2 London's streets are some of the most congested in the world<sup>3</sup>, contributing to poor air quality, delaying vital services and making walking and cycling less attractive options. Without further action, average traffic speeds are forecast to fall across London, with central London particularly affected. Excess traffic is estimated to be responsible for around 75% of congestion in London so managing demand for road space is crucial.<sup>4</sup>
- 2.3 In addition to inconvenience to the road user, the annual cost of congestion in London is assessed at around £5.5 billion.<sup>5</sup> By 2041, if action is not taken, it will take more than an hour to travel 10km by road in central London, 15 minutes longer than today.<sup>6</sup> A reduction in traffic of about 10-15% (six million vehicle kilometres per day) by 2041 is required to keep congestion in check, while also achieving the aims of the Mayor's Transport Strategy.<sup>7</sup>
- 2.4 The number of discounts and exemptions available to the Congestion Charge has a direct impact on the effectiveness of the Congestion Charging Scheme. Several recent reports into congestion in London have highlighted growing congestion levels in the CCZ and have recommended that the PHV exemption be reviewed:
- In 2016, TfL's Taxi and Private Hire Action Plan highlighted the growth of PHVs and concerns for congestion and air quality;
  - In October 2017, Centre for London's Street Smarts: Report of The Commission on the Future of London's Roads and Streets recommended reforming the current Congestion Charge regime by removing the exemption for PHVs; and
  - In November 2017, Integrated Transport Planning Ltd's Understanding and Managing Road Congestion report recommended reviewing the Congestion Charge exemptions for both PHVs and taxis and that any exemption from the Congestion Charge should only be retained if its social value strongly outweighs the adverse impact that exempting vehicles has on congestion levels in the CCZ.

<sup>3</sup> <http://inrix.com/scorecard/>

<sup>4</sup> <http://content.tfl.gov.uk/travel-in-london-report-9.pdf>

<sup>5</sup> <http://content.tfl.gov.uk/total-vehicle-delay-for-london-2014-15.pdf>

<sup>6</sup> <http://content.tfl.gov.uk/mts-challenges-and-opportunities-report.pdf>

<sup>7</sup> <https://www.london.gov.uk/sites/default/files/mayors-transport-strategy-2018.pdf>

- 2.5 The number of vehicles which are registered for the ULEZ is also rising year on year and is reflective of the increased range of eligible vehicles which are now available on the market. It is also considered appropriate to review the criteria which governs eligibility for this discount in light of the minimum emissions standards which will apply to the ULEZ Scheme when it commences in April 2019. The ULEZ Scheme will operate in the CCZ in parallel with the Congestion Charging Scheme.

**Proposal 1: Removal of the PHV exemption from the Congestion Charge**

- 2.6 A PHV licensed in London is currently a 'non-chargeable vehicle' for the purposes of the Congestion Charging Scheme if the following conditions are met:
- a) The PHV is being used to carry out a lawful booking;
  - b) The booking was accepted by a licensed PHV operator at the operating centre specified in their licence;
  - c) The PHV is listed in the operator's records as a vehicle which is available for carrying out bookings accepted by the operator;
  - d) The driver is listed in the operator's records as an available driver;
  - e) Particulars of the booking have been entered in the operator's records; and
  - f) Particulars of the vehicle have been entered against the booking.
- 2.7 The effect of being a 'non-chargeable vehicle' is that the vehicle is exempt from liability to pay the Congestion Charge.
- 2.8 When the Congestion Charging Scheme was originally conceived, an exemption was proposed for taxis but not PHVs. The first Mayor's Transport Strategy which was published in July 2001 contained an annex devoted to the proposed scheme in which it was stated that taxis but not PHVs were to receive a 100% discount. Following public consultation, it was proposed that PHVs should be exempt. The consultation report to the Mayor at that time described the rationale for this change in approach as follows:
- The 100 per cent discount for fully licensed private hire vehicles (minicabs) will support the priority in the Mayor's Transport Strategy towards incorporating licensed private hire vehicles into London's transport system. The discount will only be valid once an operator, vehicle and driver are licensed under a London licensing system, and when the vehicle has been hired. This is to ensure the operational effectiveness of the scheme. Rigorous checks will be applied to these and other vehicles afforded a discount or exemption for the Scheme. TfL does not consider it appropriate to extend the 100 per cent discount to minicabs outside Greater London.*
- 2.9 The PHV exemption from the Congestion Charge was, therefore, intended to support the new PHV licensing regime that had commenced in Greater London in January 2001 in order to improve safety standards and overall quality of service in the context of an emerging integrated transport system in London. For taxis, the rationale for the exemption was on different grounds including facilitating the need to enable a wide variety of users (including disabled passengers) to make short trips efficiently.
- 2.10 The number of PHVs has increased substantially since the Congestion Charging Scheme was introduced to a degree that could never have been envisaged in 2002. In 2008/09, there were approximately 55,000 licensed PHV drivers in London and in 2017/18 there were over 113,000. The number of licensed PHV vehicles has increased from around 50,000 to over 87,000 in the same period, with half that growth occurring in the past three years. By contrast, in 2008/09, there were approximately 24,800 licensed taxi drivers and around 22,300 licensed taxis in London. These figures have remained relatively stable with 23,826 taxi drivers and 21,026 licensed taxis in 2017/18.

- 2.11 In the same 2002 consultation report to the Mayor referred to above in which it was recommended that PHVs be exempt from the Congestion Charge, it was estimated that there would be around 4,000 PHVs in the CCZ each day during charging hours. The rise in the number of PHVs and private hire drivers has, however, had a commensurate impact on the number of PHVs being driven in the CCZ. On an average chargeable day in 2017, 18,248 PHVs were seen in the zone (a six percent increase from 2016 alone).
- 2.12 It is now being proposed that the PHV exemption should be removed from all PHVs except for those which are included on the list of designated wheelchair accessible PHVs maintained by TfL under s. 167(1) of the Equality Act 2010 and which are being used to fulfil a private hire booking. On current numbers, this means that 525 PHVs would continue to be exempt. PHVs which no longer qualify for the exemption would not be precluded from registering for other discounts such as the proposed CVD described below (offering an 100% discount), the residents' discount (a 90% discount) and the blue badge discount (a 100% discount) subject to meeting the eligibility criteria for those discounts.
- 2.13 TfL commissioned Cambridge Economic Policy Associates (CEPA) to undertake an independent study of the impacts of removing the PHV exemption. This study built on work previously done by CEPA in 2016 and 2017 which provided early insights into the potential impacts of removing the exemption.
- 2.14 The most recent study, commissioned in early 2018, aimed to understand in more detail the impact of removing the PHV exemption on PHV operators and drivers. It included engagement with the private hire trade to assess high-level traffic impacts and analysed how different types of PHV operators and PHV drivers would respond to the change. The report, in particular, aimed to provide insight on cost absorption, market specialisation and elasticity of demand.
- 2.15 The CEPA Report forecasts that the removal of the PHV exemption would reduce traffic and congestion in the zone. In summary, they forecast that during charging hours in the Congestion Charging zone there would likely be:
- A 45% reduction in unique PHV entries;
  - A 6% reduction in PHV traffic; and
  - A 1% reduction in traffic overall.

*(CEPA who forecasted these figures have stated that they represent broad estimates only but given the conservative approach they adopted, CEPA consider the 1% figure is at "the lower end of the range" (see page 5 of CEPA's further response dated 9 November 2018 (Appendix E to the Report to the Mayor which is attached at Appendix 2)).*

- 2.16 CEPA's forecast of a 45% reduction in the number of unique entries by PHVs into the zone during charging hours is based on the assumption that operators with larger fleets will distribute their bookings to minimise the number of PHVs needing to enter the CCZ. Doing so would mean that a smaller number of vehicles specialise in taking bookings within the zone, potentially undertaking more trips in the zone than they would have previously. The greatest impact on congestion will result from the expected lower demand for PHVs in the CCZ during charging hours as a consequence of the price per journey increasing to reflect the cost of the Congestion Charge.
- 2.17 Some have criticised CEPA's forecasts, in particular the Addison Lee Group who have submitted an independent report by Oxera, which contended that specialisation was a flawed concept and therefore the predicted traffic reduction of 1% was also unlikely to be realised. In response, TfL commissioned further work from CEPA to consider Oxera's report. The further work by CEPA (Appendix E to the Report to the Mayor at Appendix 2) states that their view remains that some specialisation is likely to occur as a response to competitive pressure. It also clearly acknowledges that there are uncertainties with regard to the scale of specialisation; however, the impact on traffic is not dependent on their judgement of specialisation. CEPA also explained that the 1% reduction in traffic is a conservative estimate. TfL support CEPA's analysis and note that the reduction in traffic is more closely tied to the



demand response than specialisation. TfL also note that a 1% reduction in traffic in the zone is not an insignificant benefit where the potential for more radical change (during charging hours) is very limited, but congestion is still very high.

- 2.18 Although the purpose of the Congestion Charging Scheme is to reduce traffic and congestion, there have always been consequential improvements in air quality from doing so. Removing the exemption for PHVs should reduce the number of vehicles in the zone and, therefore, help to improve air quality. The introduction of the CVD may further incentivise PHV drivers continuing to drive in the CCZ to do so in the cleanest possible vehicle. These will complement other initiatives including the introduction of the ULEZ Scheme in April 2019.
- 2.19 As is noted in the Report to the Mayor (Appendix 2), some have criticised the proposal saying that it will lead to a worsening of air quality because specialisation will result in PHVs congregating at the boundary of the CCZ and some passengers will shift from PHVs to taxis, which typically have higher emissions due to their age and vehicle type. As set out above, the Congestion Charging Scheme has as its primary objective the reduction of traffic volumes and congestion. Improvements to air quality are only a consequential benefit. The CEPA Report (Appendix B to the Report to the Mayor, which is attached at Appendix 2) states that removal of the PHV exemption may result in a slight uplift in taxi trips in the CCZ during controlled hours. While the potential for a small shift to taxi trips is acknowledged, this is unlikely to have a significant impact on congestion with CEPA noting that there will only be a minor increase in taxi traffic. Any increase is not expected to outweigh the reduced number of PHVs in the CCZ and overall, air quality in the CCZ is anticipated to improve if the PHV exemption is removed. In any event, measures to improve emissions from taxis have already been implemented or are being considered separately from this proposal. For example, since 1 January 2018, all newly licensed taxis must be zero emission capable. This requirement does not as yet apply to newly licensed PHVs. The tightening of the criteria for the 'greener vehicle' discount discussed below may also act as a mitigation measure against any increased emissions from increased taxi journeys. For PHV drivers intending to undertake trips within the CCZ (and incur the charge), there is no benefit to 'loitering' at the boundary as the charge is likely to be incurred in any event. In effect, this is unlikely to be different from what happens in practice under the current rules since PHVs are only exempt from the Congestion Charge when fulfilling a booking, so may already congregate at the border until they are allocated their first booking of the day which requires them to enter the CCZ.
- 2.20 At this stage, there is no equivalent proposal to remove the exemption for taxis. As stated above, the number of taxis has remained static or gradually declined in recent years and the original policy rationale for exempting taxis as formulated in 2001/2 remains unchanged (see paragraphs 2.8 and 2.9 above). To adopt the reasoning of Integrated Transport Planning Ltd in their November 2017 report Understanding and Managing Road Congestion, there is considered to be social value in retaining the exemption for taxis given that in certain circumstances, they may represent the only method of transport available to wheelchair using and other disabled passengers travelling in Central London, notwithstanding efforts to make the public transport network more accessible.
- 2.21 One key distinction between taxis and PHVs, which was central to the original policy proposal to exempt taxis but not PHVs from the Congestion Charge, is that taxis are legally required to be wheelchair accessible, whereas only around 525 PHVs (less than 1%) are designated as wheelchair accessible. In addition to wheelchair accessibility, taxis (but not PHVs) are required by the Conditions of Fitness to provide a range of other accessibility features which make them better placed to meet the needs of passengers with a range of accessibility needs and provide a door-to-door service in the CCZ. The accessibility features in the majority of taxis include:
- Swivel seat;
  - Intermediate step;
  - High visibility seat panels;
  - Large, coloured, grab handles;

- Low level floor lighting;
- Intercom; and
- Hearing aid induction loop.

2.22 Because of their accessibility features, taxis are used to carry out around 90% of Taxicard journeys (subsidised travel for Londoners who have serious mobility or visual impairments) with the remaining 10% undertaken by PHVs. Taxis are also used to fulfil Dial-a-Ride services when regular vehicles (mini-buses) are not available. Some of the journeys undertaken will involve dropping off or picking up passengers in the CCZ. If the exemption for taxis were removed, it is likely TfL would have to compensate for the increased cost to drivers by increasing the maximum metered fares drivers are permitted to charge either by introducing a special tariff (or extra charge applicable to journeys within the CCZ during chargeable hours) or by increasing existing tariffs generally. This would mean a rise in fares that would make it more expensive than at present for disabled people to travel.<sup>8</sup> This is undesirable because for some wheelchair users and other disabled passengers there may be no alternative to using a taxi for some journeys. For some wheelchair users and other disabled people on some journeys, taxis are an essential mode of transport, complementary to the public passenger transport network. They play a vital role in the transportation of disabled passengers in Central London. A rise in fares would make it more difficult for this group of passengers to travel, contrary to the aims of the Mayor's Transport Strategy (which is required by s. 142 of the GLA Act to include proposals which address the transport needs of people with mobility problems). For these same reasons, the proposal safeguards the exemption for the small number of PHVs which are designated wheelchair accessible.

2.23 There are also other differences between taxis and PHVs which make it justifiable to maintain the exemption for the former and which serve to demonstrate that the two are not comparable in light of the object, purpose and effect of this proposal. In particular:

- Compellability:** PHV operators are not obliged to accept bookings that would require a driver to enter the CCZ during charging hours. It is open to them to mitigate the effect of the charge by specialising in trips which avoid the CCZ, limiting the vehicles they allow to operate in the CCZ and/or planning their journeys so that the daily charge is spread across several trips. Taxi drivers, by contrast, are compelled to accept any hiring within a six mile radius of Charing Cross of up to one hour in duration or 12 miles long (20 miles if the journey begins at Heathrow Airport). This means that taxi drivers plying for hire on the street or on a designated taxi rank must accept a hire where the destination is in the CCZ. Refusing a hire is potentially an offence and could result in a taxi driver's licence being suspended or revoked. The consequence is that taxi drivers do not have the same flexibility as PHV operators and have no scope to make behavioural changes to mitigate the effects of the charge.
- Route requirements:** Another way in which PHV operators and drivers can in principle avoid the effect of the charge is to take a route that avoids the CCZ during charging hours. Taxi drivers, by contrast, are expected to take the shortest, most direct route to fulfil a hire. Taking a longer than necessary route, which leads to an increased fare, is an offence. As a consequence, taxi drivers may be required to enter the CCZ if this will result in the shortest possible route being taken.
- Fares:** PHV operators can choose how to set fares. The fares charged reflect the range of PHV services available, from more expensive chauffeur services (with premier vehicles) to airport specialists to local operators. They also reflect the operator's chosen mode of calculation. It

<sup>8</sup> Even for those disabled passengers who are entitled to subsidised travel through the Taxicard scheme, increased metered fares may have an impact on them because less than 10% of taxis (around 1,900) are part of the Taxicard scheme and one may not always be available when they wish to travel. If so, the Taxicard member will be required to pay the metered fare for their journey and will not have the benefit of any subsidy. The Taxicard member may also have exceeded their annual allocation of subsidised journeys (which is set by the local borough, differs from borough to borough and varies between 26 trips if the member also qualifies for a Freedom Pass to around 100 trips). Once the annual allocation has been used up, the Taxicard member will have to pay the normal metered fare without any subsidy for their journey.

would be up to PHV operators to decide how they wish to calculate a fare for a booking when the destination or preferred route involves entering the CCZ. Some may choose to absorb the charge without passing it on to passengers. Others may choose to pass it on by increasing fares generally. Others may choose to apply a surcharge for trips that involve entering the CCZ during charging hours. Taxis, by contrast, have no such flexibility. Their fares are regulated by TfL and whilst drivers can charge less than the metered fare, they cannot charge more. If taxis were made liable for the Congestion Charge, they would only be able to recoup the charge from passengers if TfL allowed a surcharge to be imposed on fares (either by introducing a special tariff or extra charge applicable to journeys within the CCZ during chargeable hours or by increasing existing tariffs generally). Current permissible surcharges include for phone/online booking, journeys over Christmas and New Year, and journeys that start from one of the taxi ranks at Heathrow Airport. In each of these scenarios, it is up to the taxi driver to decide whether he undertakes the activity which gives rise to the surcharge. Because of the compellability requirement mentioned above, taxi drivers would have very limited, if any, scope to avoid entering the CCZ even if they were able to impose a surcharge for doing so. Although a surcharge may have some deterrent effect on passengers (as opposed to drivers), given the role of taxis in providing essential transport for wheelchair using and other disabled passengers, it would be undesirable to discourage taxis from operating within the CCZ and undesirable to introduce a surcharge which disabled passengers would be unable to avoid.

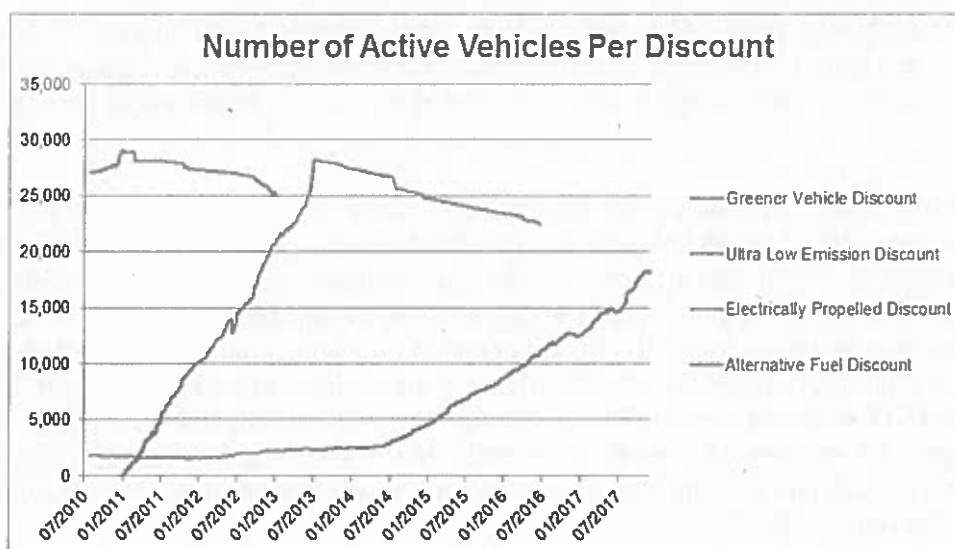
- 2.24 The impact of the proposal on PHV operators, drivers and passengers is considered below in Sections 4 and 5.

### **Proposal 2: Replacement of the Ultra Low Emissions Discount with a new phased green discount**

- 2.25 Although the main objective of the Congestion Charging Scheme is to manage congestion in the CCZ, a 100% 'green discount' for cars and vans has always been offered to incentivise drivers who choose to drive in the zone, during charging hours, to do so in the cleanest vehicles.
- 2.26 The criteria for this 'green discount' has been tightened from time to time to reflect improving vehicle technology and to regulate the number of vehicles eligible, thereby helping to maintain the original congestion reduction objectives of the Congestion Charging Scheme but still providing an incentive for drivers to drive the cleanest vehicles available. Although previous changes to the 'green discount' criteria have achieved a temporary reduction in the number of vehicles which are registered as eligible for the discount, the general trend is for those numbers to increase over time as more affordable lower emission vehicles become available.
- 2.27 The current green discount, the ULED, was introduced in 2013 and provides a 100% discount to the Congestion Charge. To be eligible, a vehicle must meet the Euro 5 emissions standard and emit less than 75g per km of CO<sub>2</sub>. Over the past few years, the number of vehicles registered as eligible for the discount has been steadily rising. In May 2018, there were approximately 20,000 vehicles registered for the discount<sup>9</sup>, an increase of 5,500 vehicles from the previous year. As at March 2018, around 8% or 1,500 of these vehicles enter the CCZ on a charging day.
- 2.28 Figure 1: Vehicles registered for the 'green' discount over time

<sup>9</sup> In October 2018, this figure was approximately 22,000 vehicles





- 2.29 TfL is proposing tightening the criteria for the 'green discount' by replacing the ULED with a new, phased and time-limited discount to be known as the Cleaner Vehicle Discount ('CVD'). The level of discount would remain at 100%. The discount will have two phases before it ceases to be offered from 2025.
- 2.30 The proposed change in criteria reflects advancements in low emission vehicle technology so that only the cleanest vehicles available are eligible for the discount. Additionally, it is necessary to impose a stricter emission standard criterion than that which will apply under the ULEZ Scheme which comes into force from 8 April 2019 and which will cover the same area as the CCZ. The current ULED criteria include a minimum emissions standard which is lower than the standard which will apply to diesel vehicles under the ULEZ Scheme. If left unchanged, the ULEZ daily charge will be levied on certain diesel vehicles on the basis that they do not meet the minimum emissions standards for the ULEZ Scheme but the same vehicles will be eligible for a 100% discount to the Congestion Charge on the basis that they are ultra low emissions vehicle for the purposes of the Congestion Charging Scheme. This anomalous position obviously needs to be addressed.
- 2.31 To date, changes to the 'green discount' have been made in single stages. It is now proposed that the full life cycle of the CVD will be set out in advance so that the public are aware of continuing initiatives to seek to improve London's air quality and can make vehicle purchasing decisions knowing what the future requirements of the 'green discount' will be. The phases and standards of the new CVD are shown in the table below.

Proposed Phase	Commencement date	Cleaner Vehicle Discount Criteria
Phase 1	From 8 April 2019	Euro 6 standard, emit no more than 75g per km of CO <sub>2</sub> and have a minimum 20 mile zero emission capable range
Phase 2	From 25 October 2021	Electric vehicles only (including hydrogen fuel cell vehicles)
Phase 3	From 25 December 2025	N/A – No discount offered

- 2.32 The criteria for phase 1 of the CVD reflect existing low emission vehicle standards. Phase 1 seeks to provide a balance between the ambition of moving towards zero emission vehicles while ensuring that there is a range of affordable car and van options which meet the criteria. TfL's consultation materials, published online at the start of the consultation on 6 July 2018, refer to the Government's Office for Low Emission Vehicles ('OLEV') plug-in car grant ('PICG'). In the recent autumn budget (29 October 2018), the Government announced changes to the PICG which had effect from November 2018. As a consequence, fewer vehicles which qualify for Phase 1 of the CVD will qualify for the PICG although the separate grant for installing a home charger remains available. A reduced level of grant (from

£4,500 to £3,500) applies to those vehicles which do qualify for the PICG. TfL does not consider that the criteria for Phase 1 of the CVD needs to be refined as a consequence of the changes to the PICG and that there are still a sufficient range of affordable vehicles available which will qualify for the CVD.

- 2.33 In phase 2 of the CVD, which will apply from October 2021, the criteria will be further tightened so that only pure electric vehicles will qualify and the CVD will become a zero emission vehicle discount. Hybrid electric vehicles including electric vehicles which are equipped with a range extender will no longer be eligible. Around 7,000 pure electric vehicles are already registered for the ULED as at May 2018. This number is expected to rise in the period between now and commencement of phase 2 in October 2021. The changes to the PICG referred to above mean that not every vehicle which qualifies for Phase 2 of the CVD will qualify for the PICG, although the vast majority will do so albeit that the level of grant is reduced. As above, TfL does not consider that the criteria for Phase 2 of the CVD should change as a consequence of the changes to the PICG given that most pure electric vehicles will still benefit from the reduced PICG.
- 2.34 The tighter criteria for phase 2 of the CVD will be supported by other mayoral initiatives. By 2020, TfL will have delivered over 300 electric vehicle rapid charge points (there are 150 already) and 2,000 standard on-street residential charge points to support the switch to pure electric vehicles. The Mayor has also recently launched a new Electric Vehicle Infrastructure Taskforce, in partnership with the private sector, dedicated to boosting the infrastructure needed to increase the take-up of electric vehicles.
- 2.35 From the end of 2025, the CVD will no longer be offered. Future incentives for the uptake of zero emission vehicles will be considered to support the ambition of the Mayor's Transport Strategy for zero emission road transport by 2050 and the proposed introduction of a Zero Emission Zone within central London from 2025.
- 2.36 A sunset period has been provided in the past when the qualifying criteria of the Congestion Charge 'green discount' has changed. This has been done in order to give affected individuals additional time to prepare for the change, to allow for an increased number of qualifying vehicles to come to market and to reflect average car purchasing or leasing cycles.
- 2.37 However, no sunset period is being proposed in respect of the replacement of the ULED. This is because the tighter criteria in phase 1 of the CVD will result in only hybrid vehicles with emissions at or below 75g/km of CO<sub>2</sub> but not capable of substantive zero emission operation becoming ineligible and affects around 2,000 out of the 20,000 currently registered vehicles for the ULED. In phase 2 from 2021, the requirements of the CVD will tighten further and apply only to pure electric vehicles, however, the public will have had three years prior notification of the proposed changes. When the discount ends entirely in phase 3 in 2025, seven years advance notice will have been given. In effect, save for phase 1 which has limited impact on existing beneficiaries of the ULED, notice periods are inherent in phases 2 and 3 of the CVD.
- 2.38 Information regarding the impacts of this proposal is provided below at Sections 4 and 5.

### **Proposal 3: a boundary change at the Old Street roundabout**

- 2.39 Following consultation in late 2014, TfL is planning to close the north-west 'arm' of the Old Street roundabout to create a peninsula, which will become a new public space. The changes to the roundabout will mean it is necessary to make a small change to the CCZ boundary at the junction. The map below shows the layout at Old Street roundabout as it will be in future, together with the new CCZ boundary. As the first phase of the ULEZ Scheme has a common boundary with the Congestion Charging Scheme, the change in boundary will ultimately affect both schemes.
- 2.40 The change will, in practice, make very little difference to drivers. New signage will indicate the new boundary and it will remain possible to avoid the CCZ and from April 2019, the ULEZ, by using the

A501 Old Street and City Road, as at present. A loading bay will be provided on the south-west corner of the new junction and will be within the CCZ and ULEZ.



- 2.41 The main works are likely to commence in mid-March 2019 and it is proposed that the boundary change will take effect from that date. This necessitates a modification to the Variation Orders made by TfL as explained below.

#### **Proposals 4, 5 and 6: Minor administrative amendments**

- 2.42 The Congestion Charging Scheme is governed by the Greater London (Central Zone) Congestion Charging Order 2004 ('Scheme Order'). It has become necessary to update certain references in the Scheme Order so that the Order is accurate. The amendments are consequential to changes which have been made independent of the Congestion Charging Scheme and are not expected to have any impact on drivers who enter the CCZ. The updates are to references to:
- a) Driver and Vehicle Licensing Northern Ireland: vehicle tax and registrations are now carried out by the Driver and Vehicle Licensing Agency rather than Driver and Vehicle Licensing Northern Ireland;
  - b) The requirement to display a vehicle licence: There is no longer a requirement under the Vehicle Excise and Registration Act 1994 to display a vehicle licence; and
  - c) The ULEZ commencement date: pursuant to MD2305, the sunset period for residents in central London needing to pay the ULEZ charge was brought forward. As such, the reference to the "ULEZ commencement date" in respect of resident's vehicles in the Congestion Charging Scheme Order has been updated to reflect this new date.

### **3 Consultation process and summary of responses**

- 3.1 A full consideration of the consultation responses is included in the Report to the Mayor (Appendix 2), which should be read in conjunction with this form.
- 3.2 The first Mayor of London issued statutory guidance to TfL entitled 'Guidance from the Mayor of London on charging schemes pursuant to schedule 23 of the Greater London Authority Act 1999'. The proposed amendments constitute a major variation to the Congestion Charging Scheme for the

purposes of that Guidance. As is required by the Guidance, a twelve week consultation was undertaken by TfL on the proposed changes between 6 July 2018 and 28 September 2018.

3.3 The consultation was hosted on TfL's online consultation portal (<https://consultations.tfl.gov.uk/policy/private-hire-charge-exemption/>). The following information was made available:

- a) Introductory and general information on TfL's consultation webpage (Appendix B to the Report to the Mayor at Appendix 2);
- b) Three subject matter specific documents entitled 'Why replace the Ultra Low Emission Discount (ULED)?'; 'Why remove the exemption to the Congestion Charge for Private Hire Vehicles?' and 'Additional changes to the Congestion Charge' (Appendix B to the Report to the Mayor at Appendix 2);
- c) An Integrated Impact Assessment, carried out by Mott MacDonald, which considers the likely health, equality, economic and business, and environmental impacts of the Consultation Proposals (Appendix B to the Report to the Mayor at Appendix 2);
- d) A study called the 'TfL-PHV Congestion Charge study', carried out by Cambridge Economic Policy Associates ('the CEPA Report'), into the impact of the proposed PHV exemption removal on the Private Hire industry in Greater London (Appendix B to the Report to the Mayor at Appendix 2);
- e) A Scheme Description and Supplementary Information document which provides greater detail about the Consultation Proposals (Appendix B to the Report to the Mayor at Appendix 2);
- f) the Variation Orders (Appendix 1); and
- g) Maps showing the proposed boundary change at the Old Street roundabout.

3.4 TfL used a variety of channels to raise awareness of the consultation. These are described in the Report to the Mayor (Appendix B) and summarised below:

- A press release was issued on 6 July 2018 to announce the start of the consultation. The consultation received media coverage from a number of outlets;
- Press adverts were featured in a variety of London media titles including the Evening Standard, and City AM. Adverts were also featured in digital display adverts during the consultation;
- A notice was also published in the London Gazette regarding the making of the Variation Orders and the consultation period on 6 July 2018;
- Targeted communications to registered Congestion Charge and other TfL customers, including members of the public, the Private Hire trade and relevant stakeholders. TfL also contacted six businesses who were judged would be directly affected by the proposals to amend the CCZ boundary at Old Street roundabout. In total, TfL sent emails to over 350,000 recipients;
- Stakeholder groups including taxi and private hire representative organisations were contacted prior to the launch of the consultation; and
- Meetings were held with stakeholders (see list in the Report to the Mayor at Appendix 2).

3.5 Respondents were asked to complete and submit an online questionnaire to provide their feedback about the proposals. It included a number of open and closed questions providing the opportunity for respondents to indicate their views about each of the proposals and ideas as well as give additional comments and feedback. TfL offered a number of ways for respondents to respond:

- a) Online – through the consultation portal;
- b) E-mail – comments e-mailed directly to TfL; and
- c) Post – by letter or return of hard copy of questionnaire.

- 3.6 TfL commissioned 2CV, an independent social research agency to analyse the consultation responses. All closed questions were reviewed and the results tabulated and reported. All open questions, where respondents provided comments, were read and analysed in detail.
- 3.7 2CV developed a ‘code frame’ for each of the open questions. Each code frame is simply a list of the issues raised during the consultation; together with the frequency each was raised.
- 3.8 A detailed quantitative analysis of the public and business responses is set out in Chapter 4 of the Report to the Mayor (Appendix 2).

#### Responses received

- 3.9 There were 10,150 responses received to the consultation from the public and businesses in total, and 51 stakeholder responses.
- 3.10 There were three sets of ‘campaign’ responses, two in opposition to the proposal to remove the PHV exemption and one in support (these had 11, 80 and 13 signatories respectively). The Licensed Private Hire Car Association (LPHCA) organised an online petition against the proposed removal of the exemption to the Congestion Charge for PHVs. The London Assembly endorsed a motion (16-3) tabled by Gareth Bacon AM opposing the proposal to remove the PHV exemption on 6 September 2018.

#### Responses to proposals

- 3.11 Of the 10,150 responses to the closed questions, just under a third of responses (32%) came from PHV drivers. 20% of respondents said that they were registered for ULED. Detailed information about the demographics of respondents is set out in Chapter 4 of the Report to the Mayor (Appendix 2).
- 3.12 In response to the first question, ‘How important do you believe it is that TfL should: Take steps to reduce traffic in central London, to the benefit of everyone who lives or works here?’, over two thirds (70%) of all respondents agreed that this was important (the sum of those ranking it a score of 7 or above)<sup>10</sup>. Among PHV drivers 39% said it was important; 43% of this group said it was not important.

#### Proposal 1: Removal of the PHV exemption from the Congestion Charge

- 3.13 Just over half (55%) of all respondents said it was important to remove the PHV exemption. Among PHV drivers who responded (these constituted a third of all respondents), this figure was 9%, with 90% opposing this proposal.
- 3.14 From stakeholders that were not PHV-related, there was a clear majority of support for this proposal. This included the seven London boroughs which responded, and London Councils (representing 32 London boroughs and the City of London), as well as several environmental and sustainable transport groups. There was support for retaining the PHV exemption for designated wheelchair accessible PHVs.

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<sup>10</sup> Respondents were asked to respond on a 1-10 scale, with 1 as ‘not at all important’ and 10 as ‘very important’. For ease of understanding, responses in the 7-10 categories are referred to as support for the proposal, 5+6 as Neutral, and 1-4 as not supporting.



- 3.15 The proposal was not supported by PHV trade associations, PHV operators and the Labour Group of the London Assembly. In addition, a petition against the proposal (with over 5,300 signatures) was submitted by the Licensed Private Hire Car Association (LPHCA). A petition and two sets of 'campaign' responses (11 and 80 responses) opposed the removal of the PHV exemption on grounds of its impact on drivers (another campaign of 13 responses supported it). The London Assembly endorsed a motion (16-3) tabled by Gareth Bacon AM opposing the proposals on 6 September 2018.
- 3.16 The issues raised from those opposing the proposal were: the impacts on PHV drivers, with respondents noting the potential disproportionate impact on BAME groups; the relatively small impact of the proposal on congestion; and, the uncertainty around the likely market response and the magnitude of the impacts associated with this.
- 3.17 The issues raised from those supporting the proposal included the need to tackle air quality and congestion in London.

#### Proposal 2: Replacement of the Ultra Low Emission Discount with a new green discount

- 3.18 39% of all respondents stated the proposal to replace the ULED with the CVD was important, and 44% said it was not, with 17% not expressing a strong view. Among those who stated that they were currently registered for the ULED (20 % of respondents), almost half (48%) did not think the change was important, while 36% said it was.
- 3.19 Almost all stakeholders were in support of the proposal; it was opposed by very few. There was widespread recognition of the need to continue to take action to improve London's air quality and manage the number of vehicles eligible for the discount.
- 3.20 Among PHV drivers (who are not currently registered for this discount but could be eligible in the future if the Mayor approves removal of the PHV exemption), most (59%) did not think it was important to make this change.
- 3.21 The proposal to remove the ULED entirely in 2025 was considered not important by a majority across respondents in general, PHV driver respondents and ULED registered respondents. The majority of stakeholders supported the proposal in principle but highlighted the need for TfL to do more research on proposed timescales and available technologies.
- 3.22 There was a range of views about the details of the emissions standards and the implementation dates with some taking the view these should be more demanding and introduced earlier, and some seeking a delay and less rigorous standards. There was support for a technology-neutral approach and many respondents noted the importance of charging infrastructure.

#### Other proposals

- 3.23 Unlike Proposals 1 and 2 described above, there were no closed questions on the other, relatively minor proposals, and so it is not possible to provide percentage rankings for these. Instead the summary below focuses on comments made.

#### Proposal 3: a boundary change at the Old Street roundabout

- 3.24 This proposal was supported by stakeholders. Very few comments were made on this proposal.

#### Proposals 4, 5 and 6: Minor administrative amendments

- 3.25 These proposals were supported by stakeholders. Very few comments were made on these proposals.

## 4 Equality comments

- 4.1 Under s. 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 re-assignment, 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 only). In line with best practice, the impact on groups who also have the potential to be socially excluded, in this case, people on low incomes or from deprived communities, was also considered notwithstanding that these specific attributes are not protected under the Equality Act but may be common to people with protected characteristics.
- 4.2 The Public Sector Equality Duty applies to the Mayor's decision to confirm the Variation Orders.
- 4.3 An Equality Impact Assessment (EqIA) of the proposal to remove the PHV exemption was carried out by Mott MacDonald (Appendix B to the Report to the Mayor which is attached to this form at Appendix 2). The scoping exercise done in respect of the proposal to replace the ULED with the CVD did not reveal that any equality impacts were likely and so an EqIA was not undertaken in respect of that proposal nor any of the other consultation proposals. The health, environment and economic impacts of the PHV exemption proposal and the replacement of the ULED with the CVD are separately set out in Section 5 below.
- 4.4 The EqIA in respect of the PHV exemption removal proposal found that there are anticipated to be some long term minor impacts, both negative and positive, to some groups with protected characteristics, as follows:

### BAME PHV drivers

- Around 94% of all PHV drivers are from a BAME background so they will be disproportionately impacted by the removal of the exemption;
- Increased professional costs as a consequence of having to pay the Congestion Charge will be incurred. Those PHV drivers who enter the CCZ every day during charging hours could expect to pay around £230 a month (assuming a 22-working day month and use of Auto Pay). In cases where a driver would need to absorb all costs, and travel in the zone every day, the impact would be at its greatest. This scenario is unlikely to be typical, except in cases of specialisation (which itself implies that the business model is set up to absorb the costs beyond just the driver);
- Overall, the impact is assessed as a minor adverse one because the distribution and scale of the impact is considered to be low. Not all drivers will regularly enter the CCZ in charging hours. The taxi and private hire driver diary survey undertaken by Steer Davies Gleave in 2017 indicates 33% of the sampled PHV drivers made journeys into the CCZ in charging hours, while 23% of trips involved travel to, from or within the CCZ. This data would suggest that there is a fairly large number of PHVs which do not regularly enter the CCZ and so would not see a substantial increase in operating costs through paying the Charge. As suggested in the CEPA Report, some operators may take on the costs themselves or choose to pass the cost on to passengers; and
- Sensitivity to the impact was assessed as low because the overall financial costs will be reduced if the payment constitutes a tax deductible expense, drivers qualify for a 100% discount such as the CVD or they are able to spread the cost over multiple trips.

### Part-time female PHV drivers

- A higher proportion of women across all industries tend to work part-time as compared to men (42% of women versus 13% of men). Part-time PHV drivers will be less able to spread the cost of the Congestion Charge across a number of journeys. As women can be assumed to be more likely to work as part-time PHV drivers, they will be disproportionately affected.
- However, this impact was assessed as being “very low” as women make up less than 2% of PHV drivers in London, of which not all will work part-time, or in the CCZ during charging hours. Notwithstanding the scale of the impact, for those women who fall within the 2% and work day time weekday shifts in the CCZ, sensitivity to increased professional costs may be high.

### Drivers from deprived communities

- Within London, 71% of PHV drivers live in areas which are within the most deprived and second most deprived quintiles, as defined by the index of multiple deprivation. Further, the most densely populated areas for PHV drivers largely map to the areas of London with the highest levels of deprivation. The reduction in income that may be faced by drivers who are required to pay the Congestion Charge may be prohibitive in terms of some PHV drivers staying within the profession or entering it. Given that this trade offers an employment stream for communities in deprived areas, it can be expected that the increased costs as a result of paying the Congestion Charge may impact disproportionately on communities in London where there are areas of high deprivation.
- The impact is considered to be a minor adverse one for the same reasons stated in respect of BAME drivers: not all drivers will regularly enter the CCZ in charging hours and some operators may take on the costs or pass the cost on to passengers. As also mentioned above, the financial impact will be reduced or neutralised if the payment constitutes a tax deductible expense, drivers qualify for other discounts such as the CVD or the cost of the Congestion Charge is spread over multiple trips.
- It is, therefore, likely that a high proportion of PHV drivers would continue within the profession.

### Passengers

- A minor adverse impact was assessed in respect of passengers who have a low income, are female or disabled:
  - *Low income:* in London, similar levels of usage of PHVs are seen amongst those defined as ‘low income’ as compared to overall. However, those who earn less than £5,000 a year have a slightly higher usage of PHVs compared to overall (8% who earn less than £5,000 use PHVs at least once a week compared with 6% overall);
  - *Women:* older and younger women are more likely to use PHVs than their male counterparts (9% of females under 25 years old use PHVs once a week compared to 7% of men of the same age; 6% of women over 65 years use PHVs once a week compared to 5% of men of the same age); and
  - *Disabled:* people with mobility difficulties use PHVs more frequently than people without mobility difficulties (8% of disabled people living in London use PHVs at least once a week compared with 6% of non-disabled Londoners).
- The impact is only relevant to those passengers who wish to travel within the CCZ during chargeable hours with the likely additional cost nil (if absorbed by the driver or operator) or minimal (if spread by the driver/operator over several hires). The most likely scenario

identified by CEPA is that the charge will be passed on to passengers who will pay around £1 – £2 per trip.

- It is recognised that any increase in fares may not be an insubstantial sum for the categories of people identified above. However, there may be opportunities to avoid increased fares or minimise the impact of them. PHVs which are designated wheelchair accessible will continue to be exempt from the Congestion Charge when they are fulfilling a booking thus reducing the impact of the proposal on certain disabled passengers. Where a passenger qualifies for the Blue Badge discount, the option exists for them to nominate a particular PHV which they have used to travel into the CCZ with the vehicle then being subject to a 100% discount from the Congestion Charge. Any surcharge which may ordinarily have been imposed by the driver for trips which go into the CCZ should not then be levied. Vehicles may be nominated up to midnight on the day of travel so the passenger does not need to know the vehicle's registration number in advance and up to two vehicles may be nominated at any one time. A Blue Badge holder may also qualify for the Taxicard scheme which offers subsidised taxi journeys. From 2019, Taxicard fares will be capped so passengers will be aware of the maximum fare that will be payable for a journey and will be less susceptible to the metered fare, which is dependent upon time of day, distance travelled and time taken and can vary if there is congestion or delays. The option will also exist for Taxicard holders to pay the metered fare if it is lower than the capped fares. As stated above, 90% of Taxicard trips are fulfilled by taxis so an accessible service will be provided. Not every disabled passenger, however, will qualify for a discount or benefit from subsidised travel by taxi (for example, visitors to Greater London who do not satisfy residency requirements and Taxicard Members who have used up their annual allocation or are unable to book a taxi which is part of the Taxicard scheme). These passengers may face increased fares as a consequence of continuing to travel either by PHV or switching to taxis because they lack other transport options. For low income and younger and older female passengers who do not have mobility issues, alternative lower cost modes of transport such as public transport may be used in the CCZ during charging hours thereby reducing their sensitivity to the impact.
- Overall, passengers are expected to experience a minor positive benefit because of the anticipated improvement in air quality that will result from reduced congestion in the CCZ. This impact has, however, been questioned by some who expressed the view that air quality will worsen as a consequence of PHVs congregating at the CCZ border and passengers switching to taxis which may have higher emissions than PHVs due to their age and vehicle type. This is discussed in paragraph 2.19 above.

## **5 Impacts (other than equalities)**

- 5.1 The following expected impacts (other than equalities) are informed by the Integrated Impact Assessment (IIA) undertaken by Mott MacDonald and, in respect of the PHV exemption requirement, the 'TfL-PHV Congestion Charge study' which was carried out by Cambridge Economic Policy Associates ('the CEPA Report').

### Expected impacts of the removal of the PHV exemption

#### Impacts on PHV drivers

- 5.2 There is no specification as to who should pay the Congestion Charge when a vehicle enters the zone in charging hours and does not have a discount or exemption. In the case of a PHV, it could be paid by a passenger, the driver or the operator, for example. However, if the correct charge is not paid on time, it is the registered keeper of the vehicle who will be issued with a Penalty Charge Notice for non-payment and will be liable to pay the penalty charge. In some cases, the registered keeper will be the PHV driver themselves, and in other cases it may be a PHV operator.

- 5.3 If a driver was responsible for paying the charge and chose to enter the zone every day, it would cost them around £230 a month, assuming a 22-day working month and the driver registers for Auto Pay. It would be for operators to decide whether this cost, either in part or in full, could be passed onto customers through their fares, partly shouldered by operators or if the driver needs to cover the cost themselves. If a driver paid the charge themselves, they would need to consider whether it might require them to accept an increase in their expenses or work longer hours. This could have a greater impact on some groups of PHV drivers than others. Further details are included in the Integrated Impact Assessment.

#### Impacts on PHV operators

- 5.4 The effect of these proposals on operators would depend on whether they pay the charge directly, pass it on to passengers or expect drivers to pay it:
- There may be revenue implications for operators who pay the charge directly;
  - Operators who pass the charge to passengers may lose business if those passengers decide to travel in another way or with another operator; and
  - Operators who expect drivers to pay the charge may lose drivers to competitors if other operators choose not to pass the charge on in the same way, or they may find it harder to recruit drivers who are willing to work in the zone during charging hours.
- 5.5 Operators with larger fleets may be able to distribute their bookings so that a smaller number of vehicles specialise in taking bookings within the zone. This would likely lessen the impact of needing to pay the daily charge on their business. Smaller operators who take bookings within the zone may be less able to 'specialise' in this way, although a number have taken advantage of joining together in order to manage bookings collectively, for example, pooling of resources. It is recognised that some small operators may go out of business if they do not adapt their business model so as to allow for some specialisation of their fleet particularly when they do not on their own receive a sufficient number of bookings whose origin or destination is in the CCZ to enable the cost of the Congestion Charge to be spread across multiple trips.

#### Impacts on passengers

- 5.6 Some operators may choose to pass the cost of the Congestion Charge onto passengers through an increase in fares. This isn't unusual; many PHV operators already pass on extra charges to passengers, such as airport car parking charges. For those who pass on the charge to passengers, the analysis by CEPA indicates that fares may increase by around £1-2 per affected journey. An increase may mean that some passengers choose instead to walk or cycle, use public transport or take a taxi to make a journey that they would previously have made by PHV. People that choose to still use PHVs or are dependent on them for travel may need to pay higher fares. Passengers may benefit from reduced congestion, since the proposed removal of the exemption is expected to reduce overall traffic within the zone.

#### Mitigation for PHV drivers and operators

- 5.7 The CVD will be available to all eligible PHVs and provides an alternative 100% discount to the Congestion Charge. TfL is already encouraging PHV owners to switch to low emission vehicles through new PHV licensing requirements associated with the introduction of the ULEZ Scheme in April 2019, which PHV owners will be liable to pay to enter unless their vehicle meets the required standard. Unlike the PHV exemption, the owner of a vehicle must register for the CVD and a £10 registration fee applies.
- 5.8 Some drivers may be eligible for other discounts and exemptions to the Congestion Charge. A 90% discount is available for those who live in the zone although on the basis of TfL's records, just over 1% of PHV drivers do so. This discount attracts a £10 annual registration fee. A 100% Blue Badge



discount applies to vehicles nominated by a Blue Badge holder. Up to two vehicles may be nominated and it is not possible to estimate how many PHVs are likely to qualify for the discount. This discount attracts a £10 annual registration fee. Around 525 PHVs that are designated as wheelchair accessible will also retain the exemption when being used to fulfil a private hire booking. No fee applies to be designated. Additionally, if a PHV is used to provide local authority school transport it may also qualify for an exemption when carrying out those bookings.

- 5.9 If the proposals are approved by the Mayor, TfL will contact all licensed PHV drivers directly to notify them of the changes including the potential to register for the CVD.

#### Expected impacts of the introduction of the CVD

##### Impact on drivers

- 5.10 Drivers who are currently registered for the ULED but whose vehicles will not be eligible for the CVD will no longer receive the discount to the Congestion Charge. This will have an adverse economic impact on drivers who choose to continue to use their existing vehicle to travel in the CCZ during charging hours. This will affect about 10% of drivers eligible for the ULED in 2019, but will affect a greater number of drivers in 2021 when phase two of the CVD starts and in 2025 when the CVD ceases to be offered. Drivers have other options to avoid paying the Congestion Charge including switching to an eligible vehicle (at least until 2025), making their journey outside of the Congestion Charge hours of operation or using an alternative mode of transport which does not attract the Congestion Charge.
- 5.11 If the proposals are approved by the Mayor, TfL will contact people currently registered for this discount who will either continue to receive it or no longer be eligible.

##### Impact on PHV drivers and operators

- 5.12 PHV drivers and operators who drive and own vehicles that would be eligible for the CVD will benefit from receiving the 100% discount from the Congestion Charge. Other PHV drivers and operators could benefit from receiving the discount if they switch to an eligible vehicle. In both cases, this would allow PHV drivers and operators to continue to not pay the Congestion Charge if the PHV exemption is removed.

##### Impact on the wider London population

- 5.13 The wider London population will receive health and environmental benefits from a potential reduction in the number of vehicles in the CCZ, as a result of drivers being deterred from entering the zone because they no longer receive the discount, and from drivers switching to cleaner vehicles in order to receive the discount.

## **6 Other considerations**

### Key risks and issues

- 6.1 GLA officers consider that TfL has adopted sound project management techniques in making these proposals (including those in the Variation Order) and that risks have been appropriately mitigated. Officers have taken the following steps to mitigate the risk:
- a) The Variation Orders were made and the public and stakeholder consultation was conducted in accordance with relevant standards and the guidance issued by the Mayor (please see Report to the Mayor (appendix 2) and Section 3 above);
  - b) The proposal to remove the PHV exemption was informed by the work undertaken by CEPA (see Appendix B to the Report to the Mayor which is attached to this form at Appendix 2);

- c) TfL commissioned Mott MacDonald to prepare the IIA which considered the impacts of the proposals, and on targeted groups (see Section 4 and 5 above) and is provided to the Mayor for the purposes of informing his decision whether to implement the proposals (see Appendix B to the Report to the Mayor which is attached to this form at Appendix 2);
- d) The consultation responses have been analysed and considered and the Report to the Mayor has been prepared to assist the Mayor in deciding whether to implement the proposals; and
- e) TfL officers sought legal advice throughout the process.

- 6.2 The likelihood that the decision to confirm the proposal to remove the PHV exemption will be challenged in the court by way of judicial review is considered very high. Addison Lee, a large PHV operator, has previously written to the Mayor stating its intention to bring such a claim. In its consultation response, Addison Lee stated that they considered the proposal was anti-competitive and constituted state aid because taxis would have an unfair advantage over PHVs. Addison Lee also stated that TfL should have undertaken a competition impact assessment in line with guidance issued by the Competition and Markets Authority ('CMA').
- 6.3 TfL has considered these arguments and is of the view that the proposed differential treatment of PHVs and taxis in the context of the Congestion Charging Scheme is objectively justified and the proposal does not amount to an unlawful measure. In the consultation materials, TfL set out why taxis should continue to be exempt from the Congestion Charge. Those reasons specifically relate to the particular regulatory rules which taxis are subject to which make them unsuitable for being liable to pay the Congestion Charge and are discussed at paragraphs 2.20 – 2.23 above.
- 6.4 The markets in which taxis and PHVs operate are considered to be distinct notwithstanding that there are now greater opportunities to pre-book taxis by phone or app. While the existence of taxi booking apps and the prevalence of smart phones make it possible for taxis to be booked in advance in a comparable manner to PHVs, the majority of taxis continue to be hired through being hailed on the street or at a taxi rank. According to a driver diary survey, 77% of taxi journeys were undertaken in this way in 2016/17 as compared to being booked in advance. In a driver survey conducted in 2017/18, drivers also indicated that 39% of their journeys originated at a taxi rank, 39% were from being hailed in the street, 16% were booked via an app and 6% were booked through a radio circuit. (Note that the difference between the two surveys is that the driver diary survey in 2016/17 is based on actual trips taken and the driver survey in 2017/18 is based on driver's recollection of how they undertook trips.) Given the predominance of journeys originating on the street or at a rank, a proportion of a taxi driver's time is likely to be spent in the CCZ plying for hire on the street or at a rank rather than carrying passengers because this is an inherent feature of operating a taxi.
- 6.5 In terms of trips, a much higher proportion of taxi trips are undertaken entirely within the CCZ than for PHV trips. For taxis, approximately 28% of trips have an origin and destination entirely within the CCZ. This figure is around 6% for minicabs and 11% for chauffeur and executive services (data from 2016/17, Driver diary survey. Data does not cover PHV services beyond those named).
- 6.6 As stated previously in this form, the decision to grant PHVs an exemption was made on the basis of the forecast assumption that 4,000 individual PHVs would enter the CCZ during charging hours. The significant increase in licensed PHVs and drivers since 2003 has had a commensurate increase in the number of PHVs being driven in the CCZ with there now being 18,000 individual PHV entries in the CCZ per day on average. On the other hand, the number of licensed taxis has remained the same since 2003. PHVs represent a different transport proposition today as compared to when the Congestion Charging Scheme commenced.
- 6.7 As to whether a competition impact assessment should have been undertaken (a comment made by the Addison Lee Group in their consultation response), the guidance issued by the CMA has been considered but it has been decided that it is not necessary to undertake such an assessment in respect of the proposal. The guidelines do not give rise to a legal obligation and given the proposal only has limited effect on the PHV market (applying only to those PHV drivers who enter the CCZ during

charging hours), it would be disproportionate to undertake an in-depth assessment of the type contemplated in the guidelines. That said, the economic impacts of the proposal were assessed in the IIA (Appendix B to the Report to the Mayor which is attached at Appendix 2) and the rationale for differentiating between taxis and PHVs were set out in the consultation materials and are included in this form. The Mayor is asked to take into account the differential impact of the proposal on PHVs (as compared to taxis) and small PHV operators (as compared to large operators) when making his decision.

- 6.8 The prospects of defending a judicial review challenge will be further considered once the grounds of any claim are known. A pre-action protocol letter will give the first indication of the likely nature of the challenge. The claim form must be brought promptly and, in any event, not later than 3 months after the decision to confirm the Variation Orders is made. TfL Legal will instruct external counsel (a Queen's Counsel and junior barrister) to provide expert assistance in the defence of any legal challenge that arises. A considered legal opinion of the lawfulness of the proposal and a preliminary assessment of the prospects of successfully defending a judicial review claim is included in Part 2 of this form.

#### Changes to the PHV regulatory regime

- 6.9 In 2015, TfL consulted on a range of private hire proposals to raise standards in the private hire industry and improve safety and convenience for passengers. Following the consultation, a number of new regulatory changes covering private hire operators, drivers and vehicles were introduced. These included:
- All private hire driver licence applicants and existing private hire drivers being required to meet a new English language requirement;
  - All private hire operators providing a booking confirmation to passengers before their journey starts;
  - All private hire operators ensuring that passengers are able to speak (verbally) to someone at their operating centre if they want to make a complaint or discuss any other matter about their booking; and
  - All private hire operators providing TfL with details of the drivers and vehicles they have used to fulfil bookings or have had available to them to fulfil bookings.
- 6.10 In 2017 significant changes to the private hire operator licence fee structure were introduced. The new structure meant that many operators paid more for a licence than they did under the old licence fee structure. The changes were opposed by many private hire operators and trade associations with the Licensed Private Hire Car Association (LPHCA) seeking a judicial review of the new licence fee structure.
- 6.11 In 2018, TfL consulted on a number of proposals aimed at improving safety in PHVs and these included introducing:
- An advanced driving assessment for all private hire driver licence applicants and existing private hire drivers;
  - A wheelchair assessment for certain private hire drivers; and
  - New signage requirements for licensed PHVs.
- 6.12 A new consultation on improving private hire safety, accessibility and working conditions is planned for 2018/19.

- 6.13 New emissions requirements for PHVs came into effect on 1 January 2018 and further changes will be implemented with all newly licensed PHVs having to be zero emission capable (ZEC) from 1 January 2023.
- 6.14 From 8 April 2019 the ULEZ Scheme starts and PHVs travelling in the ULEZ must pay a £12.50 charge per day, unless they meet the ULEZ emission standards. The requirement to pay the Congestion Charge, if implemented, would also come into force on 8 April 2019.

Links to Mayoral Strategies and priorities

Mayor's Transport Strategy

- 6.15 The Mayor's Transport Strategy was published in March 2018 and contains the following proposals:

*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.*

The proposal derives from policy 5:

*The Mayor, through TfL and the boroughs, and working with stakeholders, will prioritise space-efficient modes of transport to tackle congestion and improve the efficiency of streets for the movement of people and goods, with the aim of reducing overall traffic levels by 10-15 per cent by 2041.*

The narrative of the MTS states the following:

*Furthermore, the proportion of vehicles in the zone that are subject to the charge continues to reduce, as falling numbers of private cars are counterbalanced by increasing numbers of licensed PHVs, which are exempt from the charge.*

*In recent years, central London has seen a substantial increase in the number of PHVs, which was not envisaged when the exemption from the Congestion Charge for PHVs was created. More than 18,000 different PHV vehicles now enter the CCZ each day in charging hours. PHV activity in the zone is particularly high on Fridays and Saturdays: since 2013, the total number of PHV entries into the zone during charging hours on a Friday has increased by more than 50 per cent.*

*It is important therefore to continue to keep the Congestion Charge scheme under review to make sure it is fit to tackle the congestion challenge now faced in central London, along with wider measures to ensure the streets work in the best way for people who are walking, cycling and using buses, as well as for freight and servicing trips.*

- 6.16 In respect of taxis and PHVs, the MTS also stated:

*London's taxis provide a reliable and trusted service to Londoners, tourists and business people from home and abroad, offering customers safety and convenience, aided by drivers' extensive knowledge of the capital's streets. Taxis are particularly important in central London, occupying 17 per cent of the road space on an average weekday, with a further 10 per cent occupied by Private Hire Vehicles (PHVs).*

## Policy 20

*The Mayor, through TfL and the boroughs, and working with stakeholders, will seek to ensure London has a safe, secure, accessible, world-class taxi and private hire service with opportunity for all providers to flourish.*

...

*It is important to raise standards for PHVs, recognising that they have a role to play in moving people around but also contribute towards increasing congestion. TfL should be given more powers over the private hire market in London, including the ability to cap overall numbers of PHVs. The Government should also introduce legislation to provide statutory definitions of plying for hire and prebooked services to clarify the difference between taxi and private hire services.*

### London Environment Strategy

- 6.17 In May 2018 the Mayor published a new London Environment Strategy (LES), following a public consultation. The LES complements the MTS and sets out his aspiration to achieve a zero carbon Capital by 2050, including the need to implement a Healthy Streets approach and move to more sustainable transport including ultra low and zero emission vehicles. The Strategy recognises the relationship between vehicles, congestion and air pollution and the need to set out a number of objectives and policies which are relevant to the proposals described here. These include:
- Objective 4.2: Achieve legal compliance with UK and EU limits as soon as possible, including by mobilising action from London boroughs, government and other partners;
  - Policy 4.2.1: Reduce emissions from London's road transport network by phasing out fossil fuelled vehicles, prioritising action on diesel, and enabling Londoners to switch to more sustainable forms of transport;
  - Proposal 4.2.1.c: The Mayor, through TfL, will reduce emissions in the taxi and private hire fleet by phasing out fossil fuels, prioritising action on diesel, and switching to zero emission technologies; and
  - Proposal 4.3.2.d: The Mayor, through TfL and the boroughs, and working with government, will implement local zero emission zones in town centres from 2020 and aim to deliver a central London zero emission zone from 2025, as well as broader congestion reduction measures, to pave the way to larger zero emission zones in inner London by 2040 and then London-wide by 2050 at the latest.
- 6.18 The narrative under Policy 4.2.1 directly references Proposal 20 of MTS 3, which as set out above, provides for the Congestion Charge to be kept under review. Additionally, the LES sets out how the Mayor will work with Government, London boroughs and other stakeholders on the provision of suitable charging infrastructure for electric vehicles.

### Public inquiry

- 6.19 Paragraph 4(3) of Schedule 23 of the Greater London Authority Act 1999 provides that the Mayor may 'hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme'. Whether an inquiry should be held to consider the implementation of the Consultation Proposals as set out in the Variation Orders is a matter for the Mayor to decide.
- 6.20 TfL advises that no specific request for a public inquiry was made by any respondent to the consultation or separately from the consultation process. It is not expected that any new material evidence would emerge in a public inquiry beyond that which has already been provided by TfL (including evidence contained in consultation responses) that would assist the Mayor to make his



decision whether or not to confirm the Variation Orders. An extensive public and stakeholder consultation has already been undertaken and the responses comprehensively analysed as set out in this form and the attached Report to the Mayor (Appendix 2). A public inquiry would inevitably delay implementation of the Consultation Proposals including changes to the ULED which are prudent to make in time for the commencement of the ULEZ scheme in April 2019. There is no particular issue which points strongly to a public inquiry being held. It is, therefore, not recommended that a public inquiry should be held.

## **7 Recommended modifications to proposals**

- 7.1 It is not proposed that any changes be made to the Variation Orders as a consequence of issues raised in the consultation responses. A modification is, however, recommended to accommodate a possible change in the operational timetable which is relevant to the boundary change at Old Street.
- 7.2 At the time of the making of the Variation Orders in June 2018, the date on which the Old Street roundabout works were to commence was unknown. Consequently, it was not possible to specify the date on which the boundary change which is necessitated by these works would come into force. Instead, it was decided to include a mechanism by which the relevant article could be brought into force at a later date through the publication by the Mayor of a notice in the London Gazette with a one month notice period being provided for and the appointed date not being earlier than 8 April 2019.
- 7.3 The Old Street roundabout works have started earlier than anticipated although this is the early works and the precise date on which the main works will start is still to be decided. The boundary change is to coincide with the commencement of the main works rather than their completion. At the time of drafting this request, a date in mid-March is considered to be the likely commencement date of the main works. It is, therefore, necessary to modify paragraph 2(4) of the Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and paragraph 2(2) of the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018 so as to delete the reference to appointment of the commencement date not being earlier than 8 April 2019 in the event that a March date becomes the relevant commencement date.
- 7.4 The reference to 8 April 2019 only served to ensure that adequate notice would be given of the boundary change taking effect following the confirmation of the Variation Orders. The requirement to give one month's notice of the boundary change in the London gazette notice will still apply. One month's notice is considered to be a reasonable notice period given the small number of people likely to be affected by the boundary change. It is also adequate when considered in light of the informal convention that statutory instruments may only come into force 21 days after they are made. The Variation Orders are comparable to, although not in themselves, statutory instruments and the proposed one month's notice period of the boundary change having effect is more generous than the informal 21 day rule which applies to statutory instruments. The one month's notice is also additional to the period between the confirmation of the Variation Orders which gives legal effect to the prospect of the boundary change and the publication of the notice in the London Gazette pursuant to those Orders. Assuming a mid-March commencement date, the public will have been on notice of the boundary change for around two and a half months albeit that the precise date of the change will be specified with one month's notice.
- 7.5 No other modifications to the Variation Orders are considered necessary as a consequence of the consultation.

## **8 Financial comments**

- 8.1 There are no direct financial consequences for the GLA arising from this decision.

- 8.2 There would be operational costs to TfL of implementing the proposals. As the CEPA Report notes if the proposal is implemented, it is anticipated there would be revenue to TfL of around £30 million per year if the PHV exemption is removed. This estimate is provided for information only and the financial implication of the proposal should not in itself be taken into account when making the decision whether to implement it or not. Any revenue that is received must be applied for the purposes of directly or indirectly facilitating the implementation of the Mayor's Transport Strategy.

## **9 Legal comments**

- 9.1 This section considers legal issues which are not addressed elsewhere in the form.

### Variation Orders

- 9.2 The power to make changes to a road user charging scheme is exercisable in the same manner and subject to the same limitations and conditions as applies when a scheme is first established (paragraph 38 of Schedule 23 to the GLA Act). Paragraph 4(3) of Schedule 23 provides that the Mayor, acting on behalf of the Greater London Authority, must do the following:
- Consult, or require an authority making a charging scheme (TfL) to consult, other persons;
  - Require it to publish its proposals for the scheme and to consider objections to the proposals;
  - Hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme;
  - Appoint the person or persons by whom any such inquiry is to be held;
  - Make modifications to any such order, whether in consequence of any objections or otherwise, before such order takes effect;
  - Require the authority by whom any such order is made to publish notice of the order and of its effect;
  - Require it to place and maintain, or cause to be placed and maintained, such traffic signs in connection with that order as the Mayor may require.
- 9.3 A variation order is the legal instrument through which proposed changes to an existing scheme are given legal effect. As per paragraph 4(3) of Schedule 23 referred to above, changes included in a variation order may only be implemented if the variation order is confirmed by the Mayor with or without modifications. On 29 June 2018, TfL made the Variation Orders (Appendix 1) in respect of the Consultation Proposals. The Variation Orders were included in the consultation materials which were made available to the public and stakeholders.
- 9.4 Paragraph 34 of Schedule 23 provides for the Mayor to issue guidance to TfL in relation to the discharge of functions under Schedule 23. Statutory guidance was issued on 16 February 2007 and remains applicable today. TfL must have regard to the guidance when exercising Schedule 23 functions.
- 9.5 In compliance with paragraph 4 of Schedule 23 and the Mayoral Guidance, TfL undertook the consultation detailed in this form including discharging the publicity obligations. TfL has exercised the required functions under Schedule 23 having had regard to the Mayoral Guidance.
- 9.6 So as to make a lawful decision as to whether to confirm the Variation Orders, the Mayor must comply with the statutory procedural requirements relevant to the exercise of his functions under Schedule 23 and make a rational decision, after having taken into account all relevant considerations and discounting any irrelevant ones.

## Modifications

- 9.7 As outlined in section 7 above, it is proposed that a minor modification be made to the Variation Orders so as to accommodate the proposed start date of the works at Old Street which necessitate the amendment of the CCZ and, consequentially the ULEZ Scheme, boundaries. Paragraph 4(3) to Schedule 23 expressly permits modifications be made by the Mayor.

## Considerations under the Human Rights Act 1998

- 9.8 Under Section 6 of the Human Rights Act 1998 ('HRA'), it is unlawful for a public authority to act in a way which is incompatible with the European Convention on Human Rights. As a public authority, the Mayor is obliged to consider possible interferences with people's Convention rights before deciding whether to confirm the Variation Orders.
- 9.9 The Convention rights which are potentially capable of being the subject of interference, the right to privacy and family life (Article 8) and the right to the peaceful enjoyment of possessions (Article 1 of the First Protocol), are subject to express limitations which permit restrictions of the rights for certain specified purposes. In assessing whether any established interference with a convention right falls lawfully within a permitted category of restriction, the public body must demonstrate the level of interference is proportionate to the public benefit to be derived from the action.
- 9.10 Confirmation of the Variation Orders, and the Consultation Proposals implemented by it, is not considered to give rise to an interference with the Convention rights of any person. Furthermore, any interference, if it were established would not be sufficiently significant to prevent the justification of the Mayor's action as a necessary and proportionate response having regard to such matters as the economic well-being of the country of which London is the capital city, the protection of health, the protection of the rights or freedom of others and the general interest.

## Authorisation to publish the London Gazette notice

- 9.11 Section 38 of the GLA Act provides that the Mayor may authorise TfL to exercise his functions. Section 38(7) of the GLA Act 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.
- 9.12 The relevant function which the Mayor is authorising TfL to exercise is the function of publishing the notice in the London Gazette of the appointed date on which the Old Street boundary change is to come into effect pursuant to paragraph 2(5) of the Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and paragraph 2(3) of the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018. That function derives from the Mayor's functions under paragraph 38 of Schedule 23 to modify a road user charging scheme as described in section 9.2 above.
- 9.13 It is considered reasonable for TfL to publish the required notice on behalf of the Mayor since the Mayor by confirming the Variation Orders has made the substantive decision in respect of the Old Street boundary and the role reserved to TfL is a procedural one of notifying the public when that change is to take effect. It is consistent with the responsibility that may be imposed on a charging authority by the Mayor pursuant to paragraph 4(da) of Schedule 23, namely, the requirement to publish notice of the making of an order and its effect.
- 9.14 The Mayor may impose conditions on any delegations under section 38(1). In this case, the delegation is subject to the condition that TfL consult the Deputy Mayor for Transport on the proposed commencement date in advance of publishing the notice.
- 9.15 Section 38(10) of the GLA Act requires a delegation to be in writing. This requirement is satisfied through this form.

## **10 Milestones and next steps**

10.1 If the Variation Orders are confirmed, notice of the confirmation would be published in the London Gazette in accordance with the Mayoral Guidance issued pursuant to Schedule 23 of the GLA Act. The proposals would then be implemented as follows:

- As explained above, the Old Street boundary change is likely to take effect from mid-March 2019 with one month's notice of the commencement date published in the London Gazette;
- The PHV exemption removal, first phase of the CVD and the minor administrative amendments to the Scheme Order would take effect from 8 April 2019;
- Phase 2 of the CVD will commence on 25 October 2021; and
- The CVD will cease to be offered from 25 December 2025.

### **Appendices and supporting papers:**

**Appendix 1** – Greater London (Central Zone) Congestion Charging (Variation) Order 2018 and the Greater London Low Emission Zone Charging (Variation) (No. 2) Order 2018

**Appendix 2** – Report to the Mayor

**Appendix 3** – Instrument of Confirmation

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval 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: This is the date of the planned announcement

Until what date: 21 December 2018

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – YES**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

Erica Walker has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

**Assistant Director/Head of Service:**

Tim Steer has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

**Sponsoring Director:**

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

✓

**Mayoral Adviser:**

Heidi Alexander 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 10 Dec 2018

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. D. Belle*

Date

13.12.18

**CHIEF OF STAFF:**

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

Signature

*D. Bellamy*

Date

14 / 12 / 2018