

GREATER LONDON AUTHORITY

REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD22

Title: Payment of the Ultra-Low Emission Zone charge for personnel based in the charging zone

Executive Summary:

The London Fire Commissioner seeks approval to reimburse the Ultra-Low Emission Zone (ULEZ) charge for a short-term transitional period, principally for watch-based staff based within the ULEZ area who incur the charge travelling to work, provided that they may be required, and agree to use their vehicle, to undertake 'standby' movements for operational cover. A 'standby' is where a watch-based employee moves from one station to another to keep a fire appliance available for emergency response.

The Deputy Mayor for Fire and Resilience was consulted during, and subsequent to, the negotiations with the representative bodies. The Deputy Mayor for Environment and Energy has also been consulted.

The London Fire Commissioner Governance Direction 2018 requires the London Fire Commissioner to seek prior approval of the Deputy Mayor for Fire before a commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices.

Decision:

The Deputy Mayor for Fire and Resilience:

consents to the implementation of the recommendations above, which have been fully consulted on with the representative bodies, for the temporary reimbursements of the Ultra-Low Emission Zone charges at an estimated one-off cost of £234.5k in 2019/20, within the parameters described in the recommendations to the London Fire Commissioner in report LFC-0178z and outlined in paragraph 2.1 below.

Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

21/06/2019

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

Decision required – supporting report

1. Introduction and background

- 1.1. Report LFC-0178z to the London Fire Commissioner sought approval to reimburse the Ultra-Low Emission Zone (ULEZ) charge for a short-term transitional period, principally for watch-based staff based within the ULEZ area who incur the charge travelling to work, provided they may be required, and agree to use their vehicle, to undertake 'standby' movements for operational cover.
- 1.2. The Commissioner's Board have considered and recommended the proposal to the Commissioner, who has indicated in-principle support pending prior consent to spend from the Deputy Mayor. The Deputy Mayor for Fire and Resilience also considered the proposals to the Commissioner in report FRB-0046 at her Fire and Resilience Board on 14 May 2019 and indicated her support.
- 1.3. The Ultra-Low Emissions Zone (ULEZ) was implemented in central London, covering the same area as the congestion charge zone, from 8 April 2019. It operates 24 hours a day, every day of the year, unlike the congestion charge zone which operates between 0700–1800 hours, Monday to Friday. The T-charge, or Emissions Surcharge, previously operated in the congestion charge zone, and meant that older vehicles which did not meet minimum emission standards had to pay an additional £10 charge on top of the congestion charge. The T-charge was replaced by the ULEZ on 8 April 2019.
- 1.4. From 8 April 2019, vehicles need to meet strict emission standards (Euro 4 for petrol vehicles, which became mandatory for new cars in 2005; Euro 6 for diesel vehicles, which became mandatory for new cars in 2015), or a daily charge of £12.50 needs to be paid to travel within the area of the ULEZ. The T-charge emission standard was Euro 4 (2005) for both petrol and diesel, and hence ULEZ is a stricter standard for diesel vehicles only.
- 1.5. On 25 October 2021, the ULEZ area will be expanded to include the inner-London area bounded by the North and South Circular roads.
- 1.6. The Brigade currently reimburses the congestion charge, and previously reimbursed the T-charge where applicable, for all watch-based staff (i.e. firefighters, crew managers and watch managers) who drive to work at one of the three stations in the congestion charge zone (Soho, Dowgate and Lambeth). This includes staff trained to deliver Chemical, Biological, Radiological and Nuclear explosives (CBRNe) incident management, who work out of Lambeth, Lambeth River Boat Station, and the Fire Investigation Unit (FIU) based at Dowgate. However, these latter three groups do not undertake 'standby' movements. The congestion charging policy, PN 484 paragraph 4.1, has stated:

"Firefighters (up to and including the role of Watch Manager B) who routinely drive to work at one of the three stations in the zone (Soho, Dowgate, and Lambeth) will have any [congestion] charges paid for home to work and return journeys reimbursed. This applies only if they agree to use their car to travel to another station for a 'standby' duty, if required, and have appropriate insurance cover for driving on Brigade business."
- 1.7. Although PN 484 implies that the congestion charge will only be paid to staff expected to undertake 'standbys', in practice all watch-based staff working out of the three stations are reimbursed the congestion charge (and previously the T-charge where applicable), even if they are not required to undertake 'standby movements'.

2. Objectives and expected outcomes

- 2.1. The recommendations to the Commissioner are:

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

- 2.2. A survey of staff at the three stations, including the CBRN, FIU and Lambeth River teams, has been undertaken. This showed that of the 115 staff based at these stations who are required to undertake standbys, 43 currently drive to work in a non-ULEZ-compliant vehicle. Amongst the 92 staff not required to undertake standbys, 48 currently drive to work in a non-ULEZ-compliant vehicle. The other staff either drive to work in a ULEZ-compliant vehicle or come to work using a different mode of transport.
- 2.3. Every tour of duty the ULEZ charge will be incurred five times (as the two night shifts straddle three calendar days). The 12-month cost of reimbursement for watch-based staff based within the ULEZ area, taking into account that one group is only to be reimbursed for three months, includes the 47 per cent cost of reimbursing the employee's tax and national insurance contribution on the ULEZ charge (as this is a taxable benefit), and the 13.8 per cent employer's national insurance contribution. This is based on an average 30 shifts leave per year.
- 2.4. Other absences which could reduce the cost of the proposals, such as sickness, may themselves lead to standbys, which may or may not incur an offsetting ULEZ charge reimbursement, and hence have been discounted for the calculation. This figure will reduce as and when staff exercise the option of the interest-free loan to purchase a ULEZ-compliant vehicle.
- 2.5. Against the projected annual cost of the proposals, the Brigade will save the current cost of reimbursing the T-charge. However, based on data from the Brigade's Finance department this amount is negligible (circa £180 to-date).

- 2.6. The additional cost of reimbursing those who incur the ULEZ charge when undertaking urgent managerial business is difficult to estimate. However it is anticipated that these costs will be contained within existing departmental expenses budgets.

3. Workforce impacts and costs

- 3.1. A 12-month sunset period of reimbursement of the ULEZ charge would be appropriate to give staff who undertake standbys time to upgrade vehicles which are not ULEZ-compliant, and to minimise disruption to standby movements from 8 April 2019, thus minimising the time fire appliances may be unavailable for emergency response.
- 3.2. A short transitional (three-month) period of reimbursement is appropriate for staff not providing standby cover within the context of negotiations with—and expectations of—the representative bodies. That those negotiations completed so late supports this short transitional period which provides time for these staff to use the loan option to purchase a ULEZ compliant vehicle.
- 3.3. The Brigade's offer of an interest free loan up to a maximum £9,000 to encourage all watch-based staff who work within the ULEZ area to switch to ULEZ-compliant vehicles supports the Mayor's agenda. Switching to ULEZ-compliant vehicles will improve air quality in London and reduce the costs to the Brigade of ULEZ charge reimbursement. Employer interest-free loans in excess of £10,000 are deemed a taxable benefit by HMRC, and as watch-based staff are eligible for other small standby-related loans, an interest-free loan maximum of £9,000 is proposed. If relevant staff have other non-standby-related interest-free loans (e.g. tenancy deposit and childcare fees loans) then their interest-free maximum can only be the balance of £10,000. It is proposed that this offer is only available to staff for a six-month period to encourage early take-up.
- 3.4. It is proposed to apply the 12-month sunset period of reimbursement to the small number of operational middle managers based in the ULEZ area to also give them time to upgrade their vehicles, as they are required to have their vehicles available at all times. Otherwise, the Brigade has an obligation to reimburse expenses necessarily incurred in the course of an employee's duties. It is proposed that this encompasses reimbursement of the ULEZ charge, but that in order to be reimbursed staff will need to demonstrate that the ULEZ charge was unavoidably incurred, and therefore that it was neither possible nor practicable for the journey in question to be undertaken by public transport.
- 3.5. It is also proposed that all such reimbursements cease on 7 April 2020. Again, this gives staff sufficient time to upgrade non-compliant vehicles, and there are existing car loan schemes for the relevant staff who should all be designated essential or casual car users (all lease cars are ULEZ compliant as they are no more than three years old).
- 3.6. The above proposals have been fully consulted on with the representative bodies, primarily with the Fire Brigades Union (FBU) who represent the watch-based staff working within the ULEZ area. Although the FBU would have preferred a longer period of reimbursement for their members, they recognise the constraints the Commissioner is working under and the importance of the Mayor's agenda to improve air quality. The FBU has appreciated the measures the Commissioner is taking to mitigate the position of those working within the ULEZ area.

4. Equality comments

- 4.1. The Public Sector Equality Duty – and the potential impacts of this decision on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) – has been considered by the London Fire Commissioner (and the Deputy Mayor for Fire and Resilience at the Fire and Resilience Board on 14 May 2019).

4.2. Under section 149 of the Equality Act 2010, the London Fire Commissioner and the Deputy Mayor for Fire and Resilience must have due regard to the Public Sector Equality Duty when they make decisions. The duty requires them to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
- b) Advance equality of opportunity between people who share a relevant protected characteristic (that is, a protected characteristic other than marriage and civil partnership) and those who do not.
- c) Foster good relations between people who share a relevant protected characteristic and those who do not including tackling prejudice and promoting understanding.

4.3. In relation to duty (a), there are no direct impacts in respect of those with protected characteristics as the only variables are whether or not journeys are undertaken into or within the ULEZ area, and whether the relevant staff do or do not have a vehicle which is already ULEZ-compliant.

4.4. As to whether there may be an indirect impact, analysis of the watch-based staff working at the three fire stations within the ULEZ area (including the CBRN, FIU and Lambeth River teams), shows the following:

Equality impacts of ULEZ on watch-based staff working within the ULEZ area

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

4.5. The above figures show that a slightly lower percentage of watch-based staff working at the three stations are Black or Minority Ethnicity (BME) (10.6%) compared to the organisation as a whole (13.3%), and a slightly lower percentage are women (5.3%, compared to 7.2% across the LFB).

4.6. Taking the watch-based staff at the three stations as the control group, a higher percentage of BME staff are represented in the cohort where no ULEZ reimbursement is required (15.5%), whereas the percentages of men/women in this cohort are virtually identical to the control group. Ultimately, the adverse impact is for those staff who will be required to meet the ULEZ charge, as opposed to those staff who are unaffected by the ULEZ charge, and using this measure, there is a lower impact on BME staff as a higher proportion of BME staff either already have a ULEZ-compliant vehicle, or use other means to travel to work. There is no discernible impact in relation to gender. However, the group affected by the ULEZ charge are receiving a time-limited benefit from the Brigade under the proposals. That benefit is proportionate and targeted at maintaining emergency response facilities.

5. Other considerations

Strategic drivers

- 5.1. Pages 49–52 of the London Safety Plan discuss the Commissioner's 'Valuing staff and using resources wisely' commitments, to "[make] sure the Brigade has a motivated workforce who want to give their best, and to continue to contribute to the safety of London." The Plan recognises the importance of meaningful staff engagement and the importance of constructive and productive industrial relations.
- 5.2. The proposals within LFC-0178z are proportionate and constructive, are subject to discussions between the Commissioner and the trades unions, and deliver upon these commitments.

Sustainability and strategic drivers

- 5.3. The ULEZ is an important Mayoral initiative to help improve air quality which, in London, continues to exceed the limits set that are based upon the World Health Organisation's guidance. Transport for London (TfL) state that road transport is the biggest source of the emissions damaging health in London. For this reason, the London Fire Commissioner is clear that any reimbursement of the ULEZ must be for a finite sunset period – a maximum of 12 months – and that staff are encouraged to switch to ULEZ-compliant vehicles if they wish to avoid incurring the ULEZ charge.
- 5.4. Further to these proposals, the LFC has been provided with a sunset period to achieve the ULEZ standard for fleet vehicles based outside of the central zone until October 2021. All non-specialist vehicles based inside the zone are expected to have achieved compliance by the April 2019 introduction. Reimbursement of ULEZ charges delays the incentive the charge is intended to provide for individuals to upgrade to cleaner vehicles or choose other forms of transport. The interest free loan offered may however counteract this, as it is sufficient to cover the costs of numerous models of second hand vehicles that would be compliant.

6. Financial comments

- 6.1. Report LFC-0178z to the London Fire Commissioner considers the implications of the introduction of the ULEZ charge from 8 April 2019 and makes recommendations following trade union consultation as set out in the report.
- 6.2. If the ULEZ charge was reimbursed for relevant staff in line with the recommendations set out in this report, this would be at an estimated one-off cost of £234.5k in 2019/20, including tax and national insurance reimbursements.
- 6.3. The report also proposes that an interest free loan of up to £9,000 be offered to support affected staff to switch to ULEZ-compliant vehicles, but depending on the uptake this could impact on cash flow and any interest receipts. Take-up of the loan will however reduce the cost of ULEZ reimbursements.
- 6.4. If all staff using non-compliant vehicles (43 + 48) took up the offer of the maximum amount of the loan there would be a maximum initial cost of £819k (91 x £9,000): however as the loan is repayable over four years the actual cost of making the loan would only be the interest foregone on the amount loaned. Based on lost interest of 1% per annum, the cost of the loans will be £16k if taken up by all staff, which is not a material amount in the context of LFC's budget.
- 6.5. The ULEZ charge replaces the T-charge from 8 April 2019. The cost of reimbursing the T-charge has been very low, with only circa £150 incurred on the T-charge annually. Therefore, there is no expectation of savings in T-charges to offset the ULEZ charges.

- 6.6. There is also a risk that costs could vary from the estimates provided above including for reasons such as leave, sickness and other Brigade business.
- 6.7. Funding of £207k has been set aside in the Commissioner's budget for 2019/20 for ULEZ reimbursements; this was based on earlier estimates when the trade union consultation had not concluded. The actual expenditure against this amount will be monitored as part of the regular financial position reports.
- 6.8. The expenditure is to be funded through sums available to the Commissioner. There are no direct financial implications for the GLA.

7. Legal comments

- 7.1. The Policing and Crime Act 2017 amended the Greater London Authority Act 1999 (GLA Act 1999) by abolishing the London Fire and Emergency Planning Authority and establishing the London Fire Commissioner (the "Commissioner") as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999 the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 7.2. By direction dated 1 April 2018, the Mayor set out those matters for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience. Paragraph (b) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...". The Deputy Mayor's approval is accordingly required for the Commissioner to incur the expenditure set out in the recommendations to this report.
- 7.3. The statutory basis for the actions proposed in report LFC-0178z to the Commissioner is provided by the Fire and Rescue Services Act 2004, under which the Commissioner must (under sections 7, 8 and 9, and the Fire and Rescue Services (Emergencies) (England) Order 2007) secure the provision of personnel and may (under section 5A) take any action they consider appropriate to do this.
- 7.4. In taking the decisions requested, the Deputy Mayor for Fire and Resilience must have due regard to the Public Sector Equality Duty under section 149 of the Equality Act 2010. To this end, the Deputy Mayor should have particular regard to section 3 (above) of this report.

Appendices and supporting papers:

LFC-0178z – 'Payment of the ULEZ Charge for Personnel Based in the Charging Zone'

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? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

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 – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer

Andrew Nathan has drafted this report with input from the LFC and in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service

Tom Middleton has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

Advice

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 17 June 2019

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Hille

Date

18.6.19