

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3064

Title: Statutory Mayoral Guidance for London-wide ULEZ 2023 – Signage and Camera Works

Executive summary:

On 24 November 2022, the Mayor confirmed proposals (MD3060) for the expansion of the Ultra Low Emission Zone ("ULEZ") to operate London-wide from 29 August 2023 in the same area as the London Low Emission Zone ("LEZ"), which will continue to operate. A significant number of traffic signs, enforcement cameras and related equipment ("Works") must be installed before that date, including on roads and structures for which the boroughs (including the City of London) are the statutory highways authorities. The Mayor has statutory powers to issue them with statutory guidance as to the implementation of the newly revised Mayor's Transport Strategy (MTS), which provides for the London-wide operation of the ULEZ; he may also give guidance to TfL. TfL has engaged with the boroughs on draft guidance and a draft template agreement concerning the process for consenting and implementing the Works on the boroughs' roads. The proposed guidance will support TfL and the boroughs in the timely implementation of the Works ahead of the ULEZ expansion on 29 August 2023, while expecting TfL and the boroughs to work in a cooperative and consensual manner wherever possible. If confirmed by the Mayor, TfL will disseminate the guidance.

Decision:

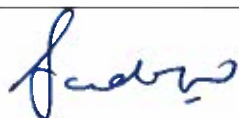
The Mayor approves the guidance at Appendix 1 (London-wide ULEZ 2023 – Signage and Camera Works – Statutory Mayoral Guidance), including the template agreement at Appendix 2, as statutory guidance to every London borough council and the City of London Corporation ("Authorities"), and to TfL, in accordance with his powers under sections 144 and 155 of, and paragraph 34 of Schedule 23 to, the Greater London Authority Act 1999.

Mayor of London

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

The above request has my approval.

Signature:



Date:

5/12/22

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

Decision required – supporting report

1. Introduction and background

London-wide Ultra Low Emission Zone

- 1.1. TfL is the Charging Authority for the Ultra Low Emission Zone (ULEZ) and London Low Emission Zone (LEZ) road user charging schemes, and so is responsible for their operation and enforcement. A ten week public and stakeholder consultation took place on a revision of the Mayor's Transport Strategy ("MTS") and detailed scheme proposals for the expansion of the ULEZ to outer London along the current boundary of the LEZ, so that it would operate London-wide from 29 August 2023.
- 1.2. The London-wide ULEZ expansion to outer London is now a formal proposal in the MTS. A revision to the Strategy was recently approved (MD3047) and published by the Mayor on 18 November 2022. The revised MTS includes a new Proposal 24.1, which states:

"The Mayor, through TfL and the boroughs, will seek to address the triple challenges of toxic air pollution, the climate emergency and traffic congestion through road user charging schemes including by expanding the Ultra Low Emission Zone London-wide."
- 1.3. Subsequently scheme proposals for the London-wide ULEZ were confirmed by the Mayor (with modifications) on 25 November 2022 (MD3060). As the Charging Authority, it is for TfL to design and implement the expansion of the ULEZ to the LEZ boundary, and it is responsible for its London-wide operation and enforcement thereafter. The LEZ will continue to operate in the same geographical area. TfL must ensure both schemes operate in conjunction with one another and are appropriately signed and enforced. An appropriate number and location of traffic signs must be installed to give drivers reasonable notice that they will enter or are driving within the London-wide ULEZ and LEZ. TfL must also ensure an appropriate number of Automatic Number Plate Recognition (ANPR) enforcement cameras are installed at appropriate locations to secure the effective operation and enforcement of the schemes.
- 1.4. TfL is responsible for securing all necessary infrastructure and systems for the ULEZ expansion on 29 August 2023. This requires the installation or alteration of a significant number of traffic signs (c.3,000) and ANPR enforcement cameras (c.2,750) which are required by TfL for the purposes of the operation and enforcement of the London-wide ULEZ and continued operation of the LEZ. The traffic signs and cameras, plus related equipment, will be installed by TfL ("Works") on various new and existing street structures located on roads throughout the capital. As well as on roads on the TfL Road Network (TLRN), for which TfL is the highways authority, Works will need to be implemented on "Borough Roads" for which the 33 London boroughs (including the City of London Corporation) are the statutory highways authority ("Authority/ies"). The Works will need to be completed in sufficient time ahead of the "Scheme Commencement Date" (29 August 2023).
- 1.5. The expansion of the ULEZ boundary to the North and South Circular roads, implemented in October 2021, required the installation of a significantly smaller number of new signs and cameras over approximately 20 months. For that project, agreements for TfL to carry out those works on Borough Roads were negotiated with Authorities individually. The agreements were made under Section 8 of the Highways Act 1980 ("Section 8") which allows one highways authority to authorise another to undertake works on its roads. With the London-wide ULEZ "go-live" in August 2023, and considerably more infrastructure to put in place, a more efficient approach to consenting and implementing the Works is considered essential to ensure the necessary infrastructure is in place sufficiently in advance of the London-wide ULEZ launching. The process must also be made easier for Authorities and reduce the burden on them.

Scope of the decision

- 1.6. For these reasons the Mayor is asked to approve the formal statutory guidance ("the Guidance") at **Appendix 1** which is to be issued to the Authorities:
- The Guidance concerns the process for consenting the implementation of the Works by TfL on Borough Roads for use in connection with the operation and/or enforcement of the London-wide ULEZ and LEZ. It is accompanied by a standard template Section 8 agreement ("Template") at **Appendix 2** specific to the London-wide ULEZ expansion project. TfL will enter into individual agreements with Authorities and may tailor the details according to circumstances.
 - The Guidance covers individual Authorities and TfL entering into Section 8 agreements for the Works to be carried out on Borough Roads (including preliminary surveys and testing) and the grant of street works permits to TfL and its contractors by Authorities under the London Permit Scheme for Road Works and Street Works 2015 ("LoPS").
- 1.7. The Guidance provides a framework for TfL and individual Authorities to enter into Section 8 agreements concerning the implementation of the Works on Borough Roads. Both are to have regard to the Guidance when exercising any statutory function that may impact upon the implementation of the Works ahead of 29 August 2023. The Mayor expects them to co-operate and act reasonably and in good faith towards one another in securing this objective.
- 1.8. The Mayor's overwhelming preference is for the Works to be carried out by TfL on Borough Roads in a consensual and co-operative manner under a Section 8 agreement as is normally the case. This is in the spirit of MTS Proposal 24.1 which references the London-wide ULEZ expansion being implemented by Authorities as well as by TfL.
- 1.9. The majority of Section 8 highways agreements entered into by TfL with other highways authorities are based on TfL's tried and tested templates, which both parties are familiar with and provide an efficient way to manage the process. For this project, given the timescales and the common requirement for signs and cameras on Borough Roads, it will be considerably more efficient to utilise a specifically prepared standard template agreement, rather than negotiate individual agreements. Similarly, to simplify the process for both parties, the Template focuses on agreeing the key principles of the scheme, with a mechanism to confirm the details of Works, locations and designs at a later point.
- 1.10. The Template covers a range of matters that are normally included in Section 8 agreements for works of this type, with the following benefits:
- It will streamline and speed up the process for all concerned and facilitate the logistics of dealing with multiple Authorities simultaneously, enabling TfL to engage with individual Authorities and focus on their legitimate concerns.
 - It sets out a mechanism for the Authority to provide TfL with in-principle Section 8 agreement in circumstances where surveys, testing and detailed design drawings are still to be confirmed.
 - It provides Authorities with a formal framework to engage with TfL and influence the final Works, their locations and designs.
 - It contractually confirms that TfL will take financial responsibility for installation and on-going maintenance of the Works and provides appropriate indemnities.
- 1.11. The Guidance and Template have been prepared by TfL following engagement with Authorities individually, and feedback from those that have responded is reported at paragraph 4.4 below.

2. Objectives and expected outcomes

- 2.1. The Guidance and Template will streamline the consenting process for TfL and the Authorities, reducing the burden on them in the current constrained circumstances. This in turn will facilitate the successful implementation of Works prior to the London-wide ULEZ Scheme Commencement Date.
- 2.2. As set out in the Guidance, the Mayor will expect TfL and individual Authorities to formally enter into a Section 8 agreement in the same (or substantially the same) terms as contained in the Template by the target date of 23 December 2022. Authorities have already been given advance sight of the Guidance and Template in draft form and had the opportunity to comment. The Guidance states that Authorities should not delay or refuse doing so but should raise genuine concerns with TfL and the latter should be open to considering changes clearly appropriate and justified. The Mayor expects TfL to pro-actively engage with individual Authorities regarding preliminary Works locations and designs before they enter into the Template agreement so as to allow them a meaningful input.

TfL's direct installation powers and Mayor's powers of direction

- 2.3. The Guidance notes that TfL has statutory direct installation powers under the Greater London Authority Act 1999 ("GLA Act 1999") that enable it, as Charging Authority for the ULEZ and LEZ, to carry out the Works on street structures on Borough Roads directly, if necessary, without the relevant Authority's consent. The powers also give TfL a legitimate and lawful basis to be granted street works permits for the Works under the LoPS:
- The Guidance states it is the Mayor's clear preference that Authorities and TfL use the Template agreement as the framework for working together to implement the Works.
 - As such, TfL's direct installation powers are to be regarded as reserve powers, to be used only where appropriate after attempts to resolve matters in a timely manner have proved unsuccessful. The Guidance states, however, TfL may appropriately use these powers to ensure that the Works (or enough of them) are completed sufficiently in advance of the Scheme Commencement Date. It may also be appropriate for TfL to use them if an Authority has refused to enter into an agreement in the form of the Template by the 23 December 2022 target date.
 - TfL will only exercise its direct installation powers after having given the Authority appropriate prior notice and after considering any timely representations received.
- 2.4. The Guidance also notes that the Mayor has the power to issue statutory directions to Authorities in appropriate circumstances if the Scheme Commencement Date is at risk.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010 ("the Equality Act"), as public authorities, the Mayor and TfL must have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not when exercising their functions. This is known as the Public Sector Equality Duty. Protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race (including gypsy and traveller communities), religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination and other prohibited conduct under the Act only). 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 – has also been considered, notwithstanding that these specific attributes are not protected under the Equality Act but may be common to people with protected characteristics.

- 3.2. There are no direct equalities implications arising out of this Decision which relates to statutory Mayor's Guidance on London-wide ULEZ consenting and installation. The Public Sector Equality Duty applies to TfL and the Authorities generally, including in the design and implementation of the Works. In doing so they will have regard to the TfL Streetscape Guidance which incorporates the consideration of equalities issues in developing designs and implementing works.

4. Other considerations

Key risks and issues

- 4.1. GLA officers consider that TfL has adopted sound project management techniques in making these proposals and that risks have been appropriately mitigated. Officers have taken the following steps to mitigate the risk:
- TfL officers engaged proactively with Authorities to discuss the proposed process and to seek feedback on the draft version of the Guidance and Template
 - the engagement responses have been analysed and considered in updating the Guidance
 - TfL officers sought legal advice throughout the process.

Links to Mayoral strategies and priorities

- 4.2. The proposed Guidance links with and helps implement MTS Proposal 24.1 mentioned above.

Consultation and impact assessments

- 4.3. TfL has engaged individually with all 33 Authorities on the draft Guidance and Template, sharing a draft copy with officers on 19 October 2022 and offering the opportunity to provide comments by 2 November 2022.
- 4.4. A small number of comments were received from four Authorities, and the Guidance and Template have been updated to reflect this. No major changes have been made or are recommended. The minor changes are:
- Guidance: wording strengthened to highlight TfL's commitment to timely, genuine and continuous engagement
 - Template: inclusion of a standard Contracts (Rights of Third Parties) Act 1999 provision
 - Template: addition to an indemnity clause to include a provision for TfL to make good any damage it causes to street structures etc arising out of the proposed works.
- 4.5. No officer involved in the drafting or clearing of this Mayoral Decision has any interests to declare.

5. Financial comments

- 5.1. There are no direct financial consequences for the GLA directly arising from this decision.
- 5.2. Funding for the London-wide ULEZ scheme was set out and approved in MD3060.
- 5.3. Timely consenting and implementation of the Work will avoid cost overruns associated with delays. The Guidance therefore promotes the efficient use of public funds, across TfL and the Authorities.

6. Legal comments

Mayor's powers to issue the Guidance

- 6.1. The current revised MTS now includes Proposal 24.1 concerning the expansion of the ULEZ London-wide and scheme proposals to implement it have been confirmed by the Mayor. The Mayor has powers under section 144 of the GLA Act 1999 to issue the guidance to the Authorities concerning the implementation of MTS Proposal 24.1 in their respective areas, to which they must have regard when exercising any relevant functions. In addition, the Mayor has powers under paragraph 34 of Schedule 23 to that Act to give guidance to the Authorities and to TfL in relation to their road user charging functions under that Schedule. The Mayor may separately give guidance to TfL as to the exercise of its functions under section 155 of that Act.

TfL's direct installation powers

- 6.2. Paragraph 4(6) of Schedule 23 concerns signage and states:

"The charging authority may enter any land¹, and exercise any other powers which may be necessary, for placing and maintaining, or causing to be placed and maintained, traffic signs in connection with the charging scheme."

- 6.3. This gives TfL statutory powers to enter Borough Roads, including for the purpose of undertaking surveys and testing, and to place and maintain traffic signs on an Authority's street structures, as well as to install any new poles or structures for that purpose.

- 6.4. Paragraph 14 of Schedule 23 states that:

"A charging authority may-

(a) install and maintain, or authorise the installation and maintenance of, any equipment; or

(b) construct and maintain, or authorise the construction and maintenance of, buildings or other structures,

used or, to be used in connection with the operation or enforcement of charging scheme."

- 6.5. This power covers equipment and structures to be used in connection with the operation or enforcement of the combined ULEZ and LEZ schemes, and allows TfL to install enforcement cameras and related equipment (including for traffic signs) such as power connections and ducting on an Authority's street structures, to install new posts/poles and to carry out surveys and testing.

- 6.6. The above powers give TfL a legitimate and lawful basis to be granted street works permits for the Works under the LoPS. TfL and its contractors will undertake the Works in accordance with street works permits granted or deemed to have been granted under LoPS.

Mayor's powers to issue directions

- 6.7. The Mayor also has the power under paragraph 33 of Schedule 23 to give any Authority, for purposes connected with the ULEZ and LEZ charging schemes, general or specific directions requiring it to exercise, in such manner as may be specified in the directions, any of the Authority's powers under any other enactment relating to the management or control of traffic.

¹ The Interpretation Act 1978 defines "land" as including buildings and other structures.

7. Planned delivery approach and next steps

- 7.1. If the draft Mayor's Guidance is approved, TfL will, on the Mayor's behalf, issue it to the Authorities as soon as possible after publication of this Mayoral decision form.

Appendices and supporting papers:

Appendix 1 – London-wide ULEZ 2023 – Signage and Camera Works - Statutory Mayoral Guidance

Appendix 2 – Template Section 8 Agreement

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 – Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer
to confirm the
following (✓)

Drafting officer:

Taryn Ferguson has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Shirley Rodrigues 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 28 November 2022

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

28/11/22

D. Gane

CHIEF OF STAFF:

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

Signature

Date

27/11/22

D. Bellamy