

**REQUEST FOR MAYORAL DECISION – MD1415**

**Title: Changes to the Congestion Charging Scheme**

**Executive Summary:**

The Mayoral Decision seeks the Mayor's approval of the Variation Order, made by Transport for London (TfL), which amends the Greater London (Central Zone) Congestion Charging Order 2004, as varied (the Scheme Order) by making the following proposed changes to the Congestion Charging Scheme:

- Allow TfL to refuse payments for the Congestion Charge other than those made by authorised users;
- Remove the SMS (Short Message Service or text message) payment channel; and
- Introduce an app which would enable users to pay the Congestion Charge.

The Variation Order was made by TfL on 1 August 2014 and was subject to public and stakeholder consultation between 4 August and 12 September 2014. The results of this consultation on the Variation Order and related impact assessments are attached for consideration.

**Decision:**

Having considered:

- i. The responses to the consultation on the Variation Order at Appendix A;
- ii. The Impact Assessment prepared in relation to the Variation Order contained at Appendix B;
- iii. TfL's Report to the Mayor following consultation with the public and stakeholders on the Variation Order, contained at Appendix C; and
- iv. The information in this report including-
  - Whether further information is required before making a decision
  - Whether further consultation, or the holding of any inquiry, public or otherwise, is necessary or appropriate before making a decision;

the Mayor confirms the Variation Order and approves the Instrument of Confirmation (contained at Appendix D).

**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: 9 December 2014**

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 The Variation Order was made by TfL on 1 August 2014 and was subject to public and stakeholder consultation between 4 August and 12 September 2014. The Order sets out the following proposed changes to the Congestion Charging Scheme:
- Allow TfL to refuse payments for the Congestion Charge other than those made by authorised users;
  - Remove the SMS (Short Message Service or text message) payment channel, to address the high transactional costs of this service; and
  - Introduce an app at a cost of £100,000 which would enable users to pay the Congestion Charge via their Smartphones or Smart Devices (ie tablets).
- 1.2 If the Mayor decides to confirm the Variation Order (with or without modifications), the changes would come into effect as follows:
- Immediately following the Mayor's decision: TfL would be able to refuse payments from unauthorised users.
  - 1 November 2015: removal of SMS payment channel and introduction of Congestion Charge app.
- 1.3 As previously approved by the Mayor on 27 May 2014 ([MD1343](#)), following public and stakeholder consultation earlier in 2014 the following changes will also be introduced on 1 November 2015:
- A Direct Debit option for CC Auto Pay
  - Online applications and renewals option
  - NHS Reimbursement available for CC Auto Pay
  - Option to amend the date of pre-paid charge on day of travel

#### **2. Objectives and expected outcomes**

##### Refusing payments from unauthorised users

- 2.1 Customers wishing to pay the Congestion Charge have a number of options (as listed in paragraph 2.7 below), including paying online via the TfL website. In the past couple of years a number of websites which are not affiliated to or authorised by TfL (referred to here as 'unofficial websites') have been set up enticing consumers to pay the Congestion Charge through those websites, which act as intermediaries. There have been up to ten of these sites in operation, although since operators change site names relatively frequently, it can be difficult to know the exact number of operators. During 2013, the level of activity of these sites increased dramatically, with up to 1,300 payments being made per day at the peak of payment activity.
- 2.2 These unofficial websites charge up to £8 on top of the Congestion Charge amount for so-called "additional services". There have been cases where these operators have accepted payments but not actually paid the Congestion Charge (resulting in Penalty Charge Notices being issued) or accepted payments for days when the Congestion Charge does not apply. TfL has received complaints about these sites and has sought to reduce the activity of these unofficial websites by:

- Engaging with Google (and other internet search engine providers) and having them decline advertising from these websites
- Sending letters via the Driver and Vehicle Licensing Agency to the registered keeper of every vehicle for which a Congestion Charge payment appears to have been made via an unofficial website.
- Liaising with Trading Standards and the Government Digital Service (who have faced similar issues with unofficial websites making unnecessary charges for NHS cards and passport applications) to be involved in and support any cross-government action against these websites.

2.3 While these actions have so far been successful in reducing the number of people using the unofficial websites, they have not eliminated the issue. It is therefore considered appropriate to put in place a long-term solution. The proposal will allow TfL to refuse to accept Congestion Charge payments which are made by unofficial websites or other unauthorised third parties that charge an unnecessary fee in addition to the Congestion Charge.

2.4 TfL will accept payments from third parties for someone else's vehicle where there is no charge or commercial gain for making payment on their behalf. TfL would maintain a policy document (made available on its website) setting out the intentions of the new provision and the generally applicable authorisations as follows:

*"TfL will provide generic authorisation to:*

- (i) any person who is not making the payment for commercial gain;*
- (ii) any person (including businesses) paying the Congestion Charge pursuant to TfL's fleet scheme or Congestion Charge (CC) Auto Pay accounts (or any other similar arrangement); and/or*
- (iii) any other class of person who may meet the criteria for another class of authorisation specified by TfL.*

*TfL may refuse payments from users who do not meet these criteria."*

2.5 TfL will continue its marketing activities to warn customers of unofficial sites and direct them to TfL's own payment channels. In the period immediately following implementation, TfL would put in place mitigations for customers who continued to use these sites and who may as a result incur a penalty charge. On the first occasion, TfL would normally accept evidence of payment to an unofficial website made in good faith as grounds to have the penalty cancelled. Customers would be advised not to use them in future.

2.6 It is expected that, since TfL will no longer accept their payments, the activity of these unofficial websites will stop. Although the proposal pertains only to the Congestion Charge, it sets a precedent for TfL to deal with any future problems of this nature and sends a signal that it is not prepared to tolerate these activities.

#### Removing the SMS payment channel

2.7 TfL offers the following ways to pay the Congestion Charge:

- online via its website ([www.tfl.gov.uk/modes/driving/congestion-charge](http://www.tfl.gov.uk/modes/driving/congestion-charge));
- by telephoning its call centre (UK, international and textphone services are available);
- by post; or
- using SMS from a mobile phone.

- 2.8 In July 2013 the retail channel for the Congestion Charge – which meant customers could pay the charge in certain shops, car parks and garages – was closed following a public and stakeholder consultation.<sup>1</sup> The Mayor approved this decision on 17 April 2013 – [MD1191](#)) The SMS payment channel is used in less than half of one per cent of payment transactions and this figure continues to fall. It is proposed to remove the SMS payment option in November 2015 when the new service provision contract for the scheme commences. A proposed new app (paragraph 2.12 below) would replace the SMS channel and also be available to customers using other payment channels. All the other ways to pay will remain in place.
- 2.9 The maintenance of the SMS channel is an ongoing cost to TfL. With the continual decline in the usage of the SMS channel, if the new Congestion Charge service provider was to provide an SMS facility upon the relet of the service provision contract, it would be at a considerable cost to TfL, with high transactional cost, which would increase as the numbers of users of SMS continued to decline. TfL believes that an app will be delivered for a similar cost and offer considerably better value for money.
- 2.10 The app will encourage existing SMS users to register for CC Auto Pay, as this is the cheapest way of paying the charge. Some 80 per cent of charges purchased are currently made by customers registered for CC Auto Pay (including Fleet Auto Pay). Drivers registered for CC Auto Pay avoid the possibility of penalty charges for forgetting to pay the charge and pay a reduced daily charge of £10.50 (an annual £10 registration charge per vehicle applies for registration with CC Auto Pay). Conversely, the SMS channel has limited scope to offer additional services to TfL's customers (such as account management) and this type of payment service is increasingly being phased out for other comparable services. It offers limited flexibility as customers must register with TfL in order to pay the Congestion Charge by text message and payments can only be made on the day of travel.
- 2.11 As these changes will occur when a new service contract takes effect, it is not possible to introduce the smartphone app in advance of removing the SMS payment channel. However, as TfL has the contact details for all customers who pay by SMS, customers will be written to several times before the SMS service is withdrawn and TfL would put in place mitigations for former SMS customers to prevent customers incurring a penalty charge in the period following the withdrawal of the SMS payment methods.

#### Introducing a Congestion Charge app

- 2.12 Many services such as parking can now be paid for using an app on a Smartphone or Smart Device (e.g. a tablet). Three-quarters of Londoners now have a Smartphone and 76 per cent use this to access the internet. Of this latter group, 87 per cent say that they use apps<sup>2</sup>. It is proposed to introduce a Congestion Charge app at the same time as the SMS payment channel is withdrawn. Normally TfL does not create its own apps, preferring to make its data available to third parties for development. However, the Congestion Charge app will entail the use of customer data and in order to respect privacy and data security this app would be developed in-house as part of the new CC contract provision. The cost to TfL of implementing this proposal will be around £100,000.
- 2.13 An app would provide TfL's customers with a better and more convenient service in addition to the other ways to pay outlined above. The app would enable customers to pay the daily charge more quickly than via SMS, and also provide the functionality to do basic account checks, account amendments, view Auto Pay balances and check discount expiry dates, none of which are possible via SMS. The app would allow customers to pay the charge in advance and up to midnight on the next charging day after travel, as well as weekly and monthly charges. Customers could use the app regardless of whether they use it to pay the charge, although non-registered customers would only be able to pay the charge and check whether an address is within the Congestion Charging zone.

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<sup>1</sup> For TfL's Report to the Mayor on this consultation, see [www.tfl.gov.uk/corporate/publications-and-reports/congestion-charge](http://www.tfl.gov.uk/corporate/publications-and-reports/congestion-charge)

<sup>2</sup> Digital and social media monitor, SPA Future Thinking for TfL, October 2013

Registered users could access more functionality, for example to amend their account details. The app would be available free of charge.

### 3. Other considerations

#### Links to Mayoral Strategies and priorities

- 3.1 The Greater London Authority Act 1999 (“the GLA Act”) provides that a road user charging scheme must be desirable or expedient for the purpose of directly or indirectly facilitating achievement of proposals in the Mayor’s Transport Strategy (“MTS”) and must be in conformity with the MTS.
- 3.2 The policy approach to the operation, monitoring and review of the Congestion Charging scheme is set out in MTS Proposal 129, which states that:

*“The Mayor, through TfL, will operate and monitor Congestion Charging in the original central London Congestion Charging zone. The Mayor will keep the scheme under review, making variations to ensure the continued effectiveness of the policy reflects best practice, improves the operation of the scheme, or helps it to deliver the desired outcomes of the MTS.”*

- 3.3 The supporting context for Proposal 129 is explained in Paragraph 682:

*“...the Mayor will continue to operate the Congestion Charging scheme in the remaining central London zone. He will consider opportunities to improve the scheme as they arise, for instance, through the development of new technologies, feedback from scheme users or stakeholders, or the emergence of new examples of best practise, to ensure it continues to provide the best possible means of achieving the desired outcomes of the MTS.”*

- 3.4 In preparing the Variation Order, TfL, in consultation with GLA officers, has had regard to the consistency with other relevant Mayoral strategies, including the Economic Development Strategy, the London Plan and the Mayor’s Air Quality Strategy (MAQS). No inconsistencies have been identified.

#### Impact Assessments

- 3.5 As a public body, the Mayor and TfL are subject to the public sector equality duty under the Equality Act 2010. Section 149 of the Equality Act sets out the duty. It requires TfL and the Mayor to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and any other conduct that is prohibited by or under this Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.6 The public sector equality duty covers protected characteristics, including age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. In line with best practice TfL also considers the needs of groups who also have the potential to be socially excluded, namely: people on low incomes; refugees and asylum seekers; the homeless; and jobseekers. The initial scoping assessment was undertaken and found that there is no evidence that any of the proposed changes, would disproportionately affect any of the equality target groups.
- 3.7 Although the making or confirmation of a variation order to amend the Scheme Order is not a plan or programme within the scope of the Strategic Environmental Assessment Regulations or a project within

Directive 85/ 337 /EEC, it was thought prudent to undertake an Impact Assessment to ascertain the likely significant environmental, equality and other relevant effects (if any) arising from the making or confirmation of the Variation Order.

3.8 TfL prepared an Impact Assessment (attached at Appendix B), which was published as part of the public and stakeholder consultation. The Impact Assessment considered the proposed changes against the objectives in the MTS:

- Primary Objective A: To contribute to, and facilitate, more sustainable and efficient economic progress within London.
- Primary Objective B: To enhance equality and actively mitigate the barriers to this.
- Primary Objective C: To contribute to enhanced health and wellbeing for all within London.

3.9 The proposed changes will not have any material effect on equality, health, safety, climate change or environmental issues compared to the status quo. The only objective likely to be affected by the proposed changes is Objective A. Therefore, economic impacts were assessed, the details of which are included in section 3 of the Impact Assessment in Appendix B. The proposal to not accept payments from unauthorised users and the introduction of the app are expected to have a minor positive effect on businesses as businesses and individuals.

3.10 In summary, the Impact Assessment stated:

*“Overall, the proposed changes are assessed as having a small positive economic impact compared to the ‘do nothing’ situation through:*

- *Better meeting users’ expectations by providing an app which has greater functionality than SMS payment and is a popular way to access and pay for services; and removing the risk of incurring additional charges by using unofficial websites.*
- *Reducing ongoing administrative costs to TfL by replacing the SMS channel with an app.”*

3.11 The proposed changes were subject to a Health Impact Assessment screening, based upon professional judgement. This determined that the proposed changes were not likely to have a significant effect on health (neither positive nor negative) and that there would be no need to carry out a full Health Impact Assessment.

3.12 There will be no impact on traffic volume, speed and congestion from the proposals.

#### Risk management

3.13 GLA officers consider that TfL has adopted sound project management techniques in making the Variation Order and carrying out the consultation and that risks have been appropriately mitigated.

3.14 Officers have taken the following steps to mitigate the risk:

- The making of the Variation Order and the consultation was conducted in accordance with the guidance issued by the Mayor (please see TfL’s Report and Section 10 below);
- TfL prepared an impact assessment which considered the impacts of the proposals on targeted groups (see Section 4 above);
- TfL officers sought legal advice throughout the development and implementation of the proposals.

## 4. Consultation

- 4.1 A combined public and stakeholder consultation on the Variation Order ran for six weeks from 4 August to 12 September 2014. TfL used a variety of channels to raise awareness of the consultation and the proposed changes to the Scheme Order. These are described in TfL's Report, attached at Appendix C and summarised below.
- 4.2 A press release was issued on 4 August 2014 to announce the start of the consultation. The consultation received media coverage from a number of news outlets including BBC London TV, radio and online, ITV News and The Guardian. Advertising was used at the start of the consultation to raise awareness and encourage customers to participate in the consultation. Pan-London press ads appeared in the Evening Standard and Metro titles.
- 4.3 Detailed information was available on the TfL website and this was signposted with banners throughout the TfL website. The following consultation materials were posted on TfL's consultation website (<https://consultations.tfl.gov.uk/roads/cc-changes>):
  - Scheme Description and Supplementary Information
  - Congestion Charge policy document (defining authorised users)
  - Impact Assessment
  - Variation Order
  - Schedule of Variations
  - Legal notice
- 4.4 Emails were sent to around 210,000 Congestion Charge customers registered on the TfL database (this included customers registered to pay by text message) in the first week of the consultation, which included a link to the online questionnaire.
- 4.5 The public consultation was supplemented by engagement with stakeholder organisations. This was to ensure that stakeholders were briefed about the proposals and the potential timetable for their implementation, to understand their concerns and to encourage participation in the consultations.
- 4.6 TfL contacted 617 stakeholder organisations by email to notify them of the consultation and to invite them to respond. This included the 33 London boroughs (including the City of London Corporation), London Councils, the Mayor's Office for Policing and Crime, the London Fire and Emergency Planning Authority, business representative organisations, freight and haulage representative organisations, transport and environment representative organisations, government departments and non-departmental bodies, trade and professional associations and London TravelWatch, London Assembly members and organisations representing the local community and voluntary sectors. TfL also contacted the Environment Agency and neighbouring local authorities.
- 4.7 A full list of stakeholders who responded to the consultation is provided in Annex B of the TfL Report and a summary of stakeholder responses is provided in Annex C of the report. The TfL report gives details of the consultation and summarises the public and stakeholder responses received.
- 4.8 In total 1,823 responses were received from members of the public, businesses and other organisations, and seven responses from stakeholders. The seven stakeholders to respond were: the Automobile Association (AA), the British Vehicle Rental & Leasing Association (BVRLA), Fitrovia BID, Rt Hon Justine Greening MP, the London Borough of Southwark, London TravelWatch and Westminster City Council. TfL has considered in its Report the representations made to the consultation. Responses from the public received up to 30 October 2014 are included in the analysis in the Report. Copies of all of the responses have been provided to the Mayor.
- 4.9 Earlier this year (6 January 2014 to 14 March 2014) TfL, on behalf of the Mayor, consulted on other changes to the Congestion Charging scheme, including an increase in the charge level and a number of improvements to the way the charge can be paid, for example the introduction of a Direct Debit

option for CC Auto Pay. On 28 May 2014 the Mayor announced his decision to approve these changes. The price increase was subsequently introduced on 16 June 2014 and the other main changes will be introduced in November 2015, when a new service contract for the Congestion Charge takes effect.

- 4.10 The fact that the present consultation took place soon after the previous consultation may in part account for the relatively low level of responses received. For comparison purposes, the earlier consultation resulted in 11,036 public and businesses responses and 29 stakeholder responses; for the most recent consultation the figures are 1,823 public and business responses and seven stakeholder responses. As the proposals for the earlier consultation constituted a major variation (due to the inclusion of a proposed increase to the charge), it ran for ten weeks compared to six in the most recent consultation. Given that similar communications and advertising activities were undertaken for both consultations, the difference may also be attributed to the relatively uncontroversial nature of the proposals contained in the present consultation.
- 4.11 TfL has analysed the consultation responses and has set out its response to the main themes raised in the representations. These themes are listed below. Note that in each case 'supported' is the sum of 'support' and 'strongly support' and 'opposed' is the sum of 'oppose' and 'strongly oppose'. Respondents were also given the option to choose 'neither support nor oppose' or to not answer the question.
- 4.12 In order to better understand respondents' views, the questionnaire asked for information on the respondent's driving pattern. Eighty-seven per cent of respondents stated that they drive in the zone in charging hours. However, over three-quarters of this group (78 per cent) indicated that they did this infrequently (1-2 times per month or less than once a month).

**Table 1: Summary of responses by public, businesses and stakeholders**

Proposal	Support	Oppose	Neither support nor oppose	Did not answer
<b>Public and business respondents (total 1,823)</b>				
Allowing TfL to refuse payments from unauthorised users	91%	3%	6%	0%
Removal of SMS channel	36%	28%	35%	0%
Introduction of an app	81%	4%	15%	<1%
<b>Stakeholders (total 7)</b>				
Allowing TfL to refuse payments from unauthorised users	All stakeholders (7/7)	0	0	0
Removal of SMS channel	LB Southwark BVRLA	Westminster City Council, Rt Hon Justine Greening MP, Fitzrovia BID	AA, London TravelWatch	0
Introduction of an app	All stakeholders (7/7)	0	0	0

*Figures are rounded up to the nearest percentage point*

Theme A: Response to proposal to allow TfL not to accept payments from unauthorised users



- 4.13 Of public and business responses received to the proposal to allow TfL not to accept payments from unauthorised users, 91 per cent supported the proposal and three per cent opposed it. All of the seven stakeholders who responded supported this proposal. A small number of public and business respondents stated that they had used unofficial websites by mistake and all of these respondents supported the proposal. A very small number of public and business respondents (12 in total) stated that the market should remain open and the change should not be implemented.

#### TfL response to issues raised

- 4.14 TfL welcomes the support for the proposal to amend the Scheme Order to allow it to refuse payments from unauthorised users.
- 4.15 In some cases the customer has paid via an unofficial website to find that the Congestion Charge has not in fact been paid, or a customer has been charged for a Bank Holiday, when the Congestion Charge does not apply. This has led to complaints to TfL and has an adverse effect on TfL's reputation and on the experience of its customers. TfL has expended considerable resource both in dealing with these complaints and in seeking to minimise the operation of these unofficial websites.
- 4.16 Although the number of unofficial websites operating (and the number of charges paid) has significantly reduced during 2014 as a result of TfL's other approaches (described in paragraph 2.2 above), it is considered better in the long-term to have in place a mechanism which prevents payments made in this way. The proposed change to the Scheme Order would achieve this. It will allow TfL to refuse to accept Congestion Charge payments which are made by unofficial websites or other unauthorised third parties that charge an unnecessary fee in addition to the Congestion Charge.
- 4.17 TfL will accept payments from third parties for someone else's vehicle where there is no charge or commercial gain for making payment on their behalf. A policy document available on TfL's website will set out the classes of user who are deemed to be authorised for the purpose of Congestion Charge payment. Over time, the activity of unofficial websites is expected to decrease to zero as they will no longer be commercially viable.
- 4.18 Mitigations will be put in place for customers who continue to use unofficial payment channels in good faith and as a result incur a penalty charge. TfL would normally accept the customer's first challenge against the penalty charge and advise them to use only official channels in future.

#### Theme B: Response to proposal to remove the SMS payment channel

- 4.19 Of public and business responses received to the proposal to remove the text message payment channel, 36 per cent supported the proposal and 28 per cent opposed it. Of the seven stakeholders who responded to the consultation, two supported the proposal (London Borough of Southwark and British Vehicle Rental & Leasing Association), three opposed it (Fitzrovia BID, Rt Hon Justine Greening MP and Westminster City Council) and two neither supported nor opposed it (London TravelWatch and the AA).
- 4.20 The most common comments/issues raised by stakeholders and the public and business respondents were:
- Support for removing the SMS payment channel;
  - Opposition to removing the SMS payment channel;
  - Concern that people may not have Smartphones (to use an app which would effectively replace the SMS payment channel) including the elderly and disadvantaged.

#### TfL response to issues raised

- 4.21 TfL is keen to ensure that the Congestion Charging scheme provides a high level of customer service, with a range of easy to use payment and account management services. In this respect, the SMS channel is an outdated approach and offers limited functionality to customers. In order to use the SMS channel, customers must first register with TfL. A number of customers do not wish to do this and so this channel is not appropriate for them. Once registered, the channel can be used only to make payments; it cannot be used to manage an account or check details about the Congestion Charging zone.
- 4.22 The proportion of payments made using the SMS channel has fallen dramatically since the introduction of CC Auto Pay. It is currently at less than half of one per cent of all transactions and this percentage is expected to fall even further. With the continual decline in the usage of the SMS channel, if the new Congestion Charge service provider was to provide this facility upon the relet of the service provision contract, it would be at a considerable cost to TfL with high transactional costs, which would increase as the numbers of users of SMS continued to decline. SMS payments are expected to fall even further in future as customers continue to switch to CC Auto Pay; therefore, the impact for customers will be minimal.
- 4.23 If the changes are approved by the Mayor, TfL will continue to promote CC Auto Pay as the easiest and cheapest way to pay the daily Congestion Charge. As well as a £1 discount on the daily charge, this payment channel means that the customer does not have to remember to pay the charge every time he or she drives in the zone in charging hours: payments are deducted automatically and a monthly statement is sent.
- 4.24 It is proposed that the SMS channel is removed on 1 November 2015. At that time, a number of other changes to the Congestion Charging scheme will also take effect. These were consulted on earlier in 2014 and include, for example, the option to apply for and renew discounts online and to make CC Auto Pay payments by Direct Debit. TfL will put in place a marketing campaign in advance of the go-live date for all these changes so that customers are well-informed about the changes. Additionally, if the Mayor does approve SMS removal as proposed, his decision will give users of this service around a year's notice of the change.

#### Theme C: Response to the proposal to introduce a Congestion Charge app

- 4.25 Of public and business responses received to the proposal to introduce an app, 81 per cent supported the proposal and four per cent opposed it. All seven of the stakeholders who responded to this consultation supported this proposal.

#### TfL response to issues raised

- 4.26 TfL welcomes the support for the introduction of the app. An app would provide our customers with the ability to pay the daily charge more quickly and also provide greater functionality than can be provided by SMS. The app would be available free of charge to customers.
- 4.27 In order to assure the data security of the app - which in order to fulfil its functions will need to use data pertaining to the customer - TfL would commission the Congestion Charge service provider to develop it, rather than make the data available to third parties, as is usual for apps based on TfL data. The requirements will stipulate a high level of data security and, as is the case for all Congestion Charge service provision, a high level of reliability and quality. The app will be user-tested before introduction. If the Mayor decides to approve its introduction, there is likely to be almost a year available in which to develop the app.
- 4.28 With the continual decline in the usage of the SMS channel, if the new Congestion Charge service provider was to provide this facility upon the relet of the service provision contract, it would be at a considerable cost to TfL with high transactional costs, which would increase as the numbers of users

of SMS continued to decline. TfL believes that an app will be delivered for a similar cost and offer considerably better value for money.

4.29 GLA officers commend TfL's responses on the issues as identified in Themes A to C above.

## **5. TfL's recommended modifications**

5.1 TfL does not recommend any modifications are made to the Variation Order.

5.2 The proposals regarding the unofficial websites and introduction of Congestion Charge app were very well supported; the response to remove SMS was more mixed. TfL reiterates that SMS usage is on a downward trend with less than half of one per cent of all of CC payments currently made via the SMS payment channel. This is explained, in large part, by the introduction of CC Auto Pay which brings advantages to customers including £1 discount on daily charge. The savings gained from the removal of the SMS will be used to develop an app which can be used on Smartphones and Smart devices. An app will enable TfL to provide a better service to its customers.

5.3 For these reasons, TfL does not recommend any delay or change to the proposal to the removal of the SMS channel. Customers will be made aware of the changes through marketing campaign in 2015 which will also inform customers about the other improvements being introduced in November 2015. The campaign will also highlight the advantages of using CC Auto Pay.

## **6. Financial comments**

6.1 TfL's 2013-14 Annual Report confirms that in the financial year 2013/14, the Gross Income raised by the Congestion Charging Scheme was £235m. TfL estimates that the increase to the charge which came in to effect on 16 June 2014 will generate an additional £17.9m of net income in the current financial year<sup>3</sup>.

6.2 There are no financial implications for GLA from these proposals. The estimated cost of implementing the changes of £0.1m will be borne by TfL. Only the creation of the app incurs a cost and this will be offset by the reduction in ongoing costs from removing the SMS channel.

6.3 Any changes to these proposals will be subject to further approval via the Authority's decision-making process as necessary.

6.4 Transport team within the Development, Enterprise & Environment Directorate with TfL will be responsible for managing this project.

## **7 Inquiry**

7.1 Schedule 23 to the GLA Act 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 measures contained in this Variation Order is a matter for the Mayor to decide.

7.2 No specific request for a public inquiry to be held was received during the consultation.

7.3 GLA officers doubt that much further quantitative evidence beyond that already supplied by TfL and GLA officers would emerge in an inquiry that would assist the Mayor's decision. GLA

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<sup>3</sup> Derived from TfL financial modelling, based on what TfL know from previous years of monitoring (i.e. forecast that 'X' number of chargeable vehicles would enter the CCZ in this financial year and, when multiplied by the increase from £10 to £11.50t would result in £17.9m additional net income)

officers note that an inquiry would delay the confirmation of the Variation Order. GLA Officers do not consider that there are any issues which point strongly to the holding of an inquiry and do not recommend that an inquiry be held.

## **8. Legal comments**

- 8.1 The Mayor's decision to confirm the Variation Order (with or without modification) must be rational and take into account only relevant considerations. TfL's making of the Variation Order and the Mayor's confirmation of it must comply with statutory procedural requirements. This section covers legal issues not addressed elsewhere in this form.

### Requirements of Schedule 23 GLA Act

- 8.2 Paragraph 38 of Schedule 23 provides that the power to make a charging scheme includes the power to vary such a scheme. The power is exercisable in a similar manner and subject to almost the same limitations and conditions as apply to the making of a scheme order including that the variation must itself be contained in an order made by TfL and submitted to and confirmed by the Mayor acting on behalf of the Greater London Authority.
- 8.3 Paragraph 4(3) of Schedule 23 prescribes that the Mayor may –
- consult, or require an authority varying a charging scheme to consult, other persons;
  - require such an authority to publish its proposals for variation of 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 variation to the 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.
- 8.4 Paragraph 34 of Schedule 23 provides for the Mayor to issue guidance to TfL or any London borough councils in relation to the discharge of their functions under Schedule 23. Paragraph 34(2) requires TfL to have regard to any guidance issued by the Mayor when exercising its functions under Schedule 23. The previous Mayor published guidance to TfL on charging schemes pursuant to Schedule 23 of the GLA Act ("the Mayor's Guidance") on 16 February 2007. The measures included in this Variation Order are considered to be a minor variation for the purposes of the Mayor's Guidance. TfL had regard to the Mayor's Guidance in relation to the making of the Variation Order and conducted the consultation in compliance with the requirements specified for a minor variation.

### Other obligations and duties which apply to the Mayor

- 8.5 The Mayor's exercise of his powers to confirm the Variation Order are subject to obligations and duties which apply generally to the exercise of public functions and other duties which are specific to the Mayor or to authorities having the status of a 'best value authority'.

## Public Sector Equality Duty

- 8.6 As discussed in Section 4, above, the Mayor (and TfL) are subject to the public sector equality duty. An impact assessment was undertaken for the purposes of fulfilling this duty in respect of the Variation Order. The assessment concluded that the Variation Order would not disproportionately affect any of the equality target groups.

## Human Rights Act

- 8.7 Section 6 of the Human Rights Act 1998 ("the Human Rights Act") requires public authorities to act compatibly with the European Convention on Human Rights. The Mayor and TfL are both public authorities for the purposes of the Human Rights Act.
- 8.8 There are no human rights under the European Convention on Human Rights which are relevant to the proposals contained in the Variation Order and its confirmation would not raise any particular Human Rights Act considerations.

## Best Value

- 8.9 The GLA, in so far as it exercises its functions through the Mayor, and TfL are best value authorities for the purposes of the Local Government Act 1999 ("the Local Government Act"). The core obligation of a best value authority is to fulfil the best value duty in s 3 of the Local Government Act. That duty is to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Mandatory consultation requirements apply to deciding how to fulfil this best value duty.
- 8.10 The best value duty does not apply to every operational decision TfL takes but, nonetheless, the proposals contained in the Variation Order and the consultation exercise undertaken by TfL are consistent with its obligations as a best value authority and its fulfilment of the best value duty. All three proposed amendments to the Congestion Charging Scheme Order have as their focus TfL being able to discharge its responsibilities in respect of the Congestion Charging Scheme in a more economic, efficient and effective manner. The costs of implementing the changes is not very significant and the benefits which will flow to TfL far outweigh such costs. The consultation exercise TfL undertook satisfies the consultation requirements of the Local Government Act as well as Schedule 23 of the GLA Act and the Mayor's Guidance.

## **7. Investment & Performance Board**

- 8.1 GLA officers have advised that this decision does not need to be considered at Investment & Performance Board due to its lack of financial impact.

## **8. Planned delivery approach and next steps**

Activity	Timeline
Procurement of contract	n/a
Announcement	21 November 2014 (TBC)
Delivery Start Date	Immediately following the Mayor's decision
Final evaluation start and finish (self/external)	n/a

Delivery End Date TfL is able to refuse payments from unauthorised users	Immediately following the date the Mayor confirms the Variation Order (assuming confirmation).
Delivery End Date Removal of SMS payment channel Introduction of a Congestion Charge app	1 November 2015 in line with Congestion Charge Relet completion. (In October 2015 the Congestion Charging scheme service provision contract will expire; this provides TfL with an opportunity to review the operation of the scheme in order to reduce the costs of operating the scheme and to enhance customer satisfaction. In light of this, changes listed are also being proposed under the re-letting of the Congestion Charging contract).
Project Closure	30 November 2014

#### Delivery risk

- 9.1 All system changes are required to go through a release schedule. This ensures that they are properly designed and tested and there are robust plans in place to ensure that if there are any issues, then these are mitigated against and that the underlying service is not put at risk.
- 9.2 The release schedule is planned in advance and any changes require further planning and assessment.

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

Appendix A – The Greater London (Central Zone) Congestion Charging (Variation) Order 2014

Appendix B – Impact Assessment

Appendix C – TfL's Report to the Mayor following consultation with the public and stakeholders on a Variation Order making changes to the Congestion Charging scheme

Appendix D – 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? NO**

**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:**

Claire Hamilton 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:**

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Isabel Dedring has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**

**CHIEF OF STAFF:**

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

**Signature**

**Date**