

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2913

### Title: TfL Proposal to increase the Penalty Charge for contraventions on the Transport for London Road Network

#### Executive summary:

The Mayor is asked to approve an increase to the level of the amount payable (Penalty Charge) under a penalty charge notice (PCN) for parking, loading, bus lane and moving traffic contraventions on the Transport for London (TfL) Road Network (TLRN) from £130 to £160 in line with inflation. The proposed new Penalty Charge would continue to be reduced by 50 per cent if paid within 14 days; and to be increased by 50 per cent if paid late (after 28 days). Overall, there has been a 26 per cent increase in the number of PCNs issued for parking, loading, bus lane and moving traffic offences between 2016 and 2019. The proposal was subject to a public consultation which ran between 5 August and 19 September 2021 (Consultation).

The Mayor is required to notify the Secretary of State pursuant to paragraph 4 of schedule 9 of the Traffic Management Act 2004 of any changes to the level of the Penalty Charge that will apply in relation to the TLRN. The Secretary of State may object to the new level of the Penalty Charge within one month of receiving this notification if he considers it to be excessive. If he does so, TfL will not be able to introduce the new level of Penalty Charge until the objection is withdrawn and the Secretary of State may set the level of the Penalty Charge by regulation.

#### Decision:

Having considered this decision form and the documents attached in the appendices the Mayor:

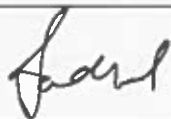
- i. approves TfL increasing the Penalty Charge level which applies to parking, loading, bus lane and moving traffic contraventions on the TLRN from £130 to £160 (with the 50 per cent discount if the Penalty Charge is paid within 14 days, and the 50 per cent increase if the Penalty Charge is not paid within 28 days, both remaining applicable)
- ii. determines that if the Secretary of State does not object within one month of being notified of the Mayor's approval to the level of the Penalty Charge applicable to contraventions committed on the TLRN, TfL shall publish the new level by a notice appearing in the London Gazette and the Evening Standard newspaper, and providing information on TfL's website.

#### 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:

8/12/21

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

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

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

##### TLRN

- 1.1. TfL's priority in managing the TLRN is to keep traffic moving safely and to fulfil the network management duty in the Traffic Management Act 2004. To this end, restrictions on the TLRN are designed to discourage stopping; parking; loading; disrupting the bus network and bus users; or driving in a manner that is dangerous or disruptive to other road users.
- 1.2. Under the provisions of schedule 9 of the Traffic Management Act 2004, TfL is responsible, subject to consultation and the approval of the Mayor, for setting the level of the Penalty Charge on the TLRN. TfL is required to consult the London local authorities together with such bodies as in TfL's opinion are sufficiently representative of road users who would be affected by the proposed charge under the provisions of schedule 9 of the 2004 Act and section 4(13) of the London Local Authorities and Transport for London Act 2003 respectively.
- 1.3. The Mayor is required to notify the Secretary of State when he has agreed to the level of the Penalty Charge proposed by TfL. The Secretary of State may object to the proposed new level within one month of being notified, on the grounds that it is excessive. The level of the Penalty Charge cannot be changed until any such objection is withdrawn or regulations are made by the Secretary of State setting the level at a lower rate than the proposed level.
- 1.4. The current level for a PCN issued for a parking, loading, bus lane or moving traffic contravention on the TLRN is £130. The last time that the TLRN Penalty Charge level was changed was in April 2011, when it was increased from £120.
- 1.5. In 2017, TfL consulted on a proposed increase to the level of the Penalty Charge from £130 to £160 for contraventions on the TLRN. The Mayor approved the proposed new Penalty Charge; however, the Secretary of State objected to it on the grounds that he considered it to be excessive and that there was no clear upward trend in the number of PCNs issued for road traffic contraventions on the TLRN. As explained below, TfL data now shows that there has been a significant increase in PCN volumes in recent years.
- 1.6. Four years on, given the Mayor's, TfL's and the government's shared aims of increasing active travel and reducing road danger, emissions reduction (both air quality and carbon), as well as the need to prevent a car-led recovery from the Covid-19 pandemic, TfL considers that it is time to revisit these proposals. TfL considers that the proposed increase in the PCN level will ensure that enforcement provides an effective deterrent to drivers contravening the rules on the TLRN, which are in place for the safety and reliability of the network. TfL is proposing to increase the Penalty Charge for parking, loading, bus lane and moving traffic contraventions on the TLRN from £130 to £160, which will continue to be reduced by half if paid within 14 days of being served. The standard increase for late payment of 50 per cent will still apply to the Penalty Charge if it is paid later than 28 days from being served. The proposed increase would bring the charges in line with the penalties for non-payment of the Congestion Charge and the Ultra-Low Emission Zone, which are also currently set at £160.

##### Enforcement

- 1.7. TfL's intelligence-led model for the enforcement of decriminalised parking, loading, bus lane and moving traffic offences on the TLRN is well established, fair and proportionate. Its activities are

focused on the contraventions and locations that cause the greatest harm in terms of road danger or disruption, particularly to the bus network.

- 1.8. TfL enforcement is underpinned by the principles of behaviour change theory. This indicates that alongside the perceived risk of getting caught and swiftness of sanction, the level of penalty is key in influencing behaviour. TfL has been concerned for some time that the existing level of the Penalty Charge (£130) has become less effective as a deterrent to poor or inconsiderate road use in London.
- 1.9. Data for TfL-issued PCNs for parking and moving traffic offences for the last five years is included in Appendix A. While PCN data is not an exact measure of compliance, it does indicate that the levels of non-compliance are still high. The data shows that there has been a significant increase in PCN volumes for most contravention types over the three years prior to the pandemic. Overall, there was a 26 per cent increase in the number of PCNs issued for parking, loading, bus lane and moving traffic offences between 2016 and 2019 (excluding enforcement of vehicle weight, height and width restrictions at Rotherhithe tunnel for critical safety reasons which was only introduced in February 2019).
- 1.10. Between 2016 to 2019 there was a 300 per cent increase in bus lane contraventions, a 31 per cent increase in moving contraventions, a 17 per cent increase in CCTV enforcement of parking and loading restrictions, and a 27 per cent increase in on street enforcement of these restrictions. Data for 2020 is skewed because of the impact of the pandemic, reflecting reductions in traffic due to lockdown restrictions; more people working from home; a relaxation in enforcement to support key workers, and essential freight and servicing; and a reduction in TfL enforcement activity as a result of compliance officers shielding or self-isolating. Unsurprisingly this resulted in a lower number of PCNs being issued in 2020. Traffic volumes on the TLRN are now back at 97 per cent of the pre-pandemic level. While TfL has issued almost half a million PCNs in the first nine months of 2021, this has been limited by the fact that levels of enforcement activity have been lower due to social distancing and safe systems of work being in place for the TLRN's Compliance team.
- 1.11. In addition to the overall increase in PCN volumes the data also shows increases in reoffending rates (the number of vehicles receiving more than one PCN). The reoffending rate involving individual vehicles receiving a PCN has increased by almost 20 per cent between 2016 and 2019. This rises to 43 per cent if Rotherhithe PCNs are included. Payment rates have been consistent over the last couple of years, with over 70 per cent of Penalty Charges paid in the last two calendar years. Approximately 90 per cent of those paying Penalty Charges are paying at a reduced rate because payment is made within 14-day period during which the Penalty Charge is discounted by 50 per cent, therefore making the charge just £65. If these payment trends continue in the short term, the majority of drivers would be paying £80 (reflecting the discount for prompt payment).

#### Inflationary increase

- 1.12. The last increase to the PCN level for decriminalised parking, loading, bus lane and moving traffic offences on the TLRN was over 10 years ago in 2011, when it increased from £120 to £130. Inflation on goods and services in the UK averaged at an increase of 2.6 per cent a year between 2011 and 2019, meaning £130 of goods and services in 2011 would cost £162.03 in 2020. In real terms, this means that the penalty has decreased from £130 to around £105.90 (in 2011 prices). The average weekly earnings for London residents have also increased by £71.90 (14 per cent) between 2011 and 2019, from £517.50 to £589.40 respectively.
- 1.13. The Department for Transport (DfT) has also looked at increasing penalties based on inflation<sup>1</sup>. It recently completed a consultation in relation to the Penalty Fare for Network Rail in relation to the real-terms reduction:

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<sup>1</sup> <https://www.gov.uk/government/consultations/rail-penalty-fare-value-reform/outcome/penalty-fare-value-reform-consultation-outcome> Accessed 29 November 2021



*“In light of this real-terms reduction, the department believes that Penalty Fares are no longer fulfilling their deterrent function. We want to update the value of the Penalty Fare to ensure the system remains an effective deterrent and the primary method by which the majority of TOCs manage fare evasion across their networks. By acting as an effective deterrent, more revenue will be generated by the railway, which can be re-invested to improve the quality of passenger services.”*

#### DfT statutory guidance

- 1.14. Another reason for increasing the Penalty Charge for TLRN offences is to reflect the seriousness of a contravention on the red route. The TLRN consists of 580km of important, strategic roads, which accounts for around 5 per cent of London’s roads but carries over a third of London’s vehicular traffic. As a result, contraventions on the TLRN are more likely to cause greater traffic disruption and/or safety risks. The DfT’s statutory guidance for local authorities on enforcing parking restrictions, published in June 2020, recognises the seriousness of a contravention when setting charges:

*“Parking in a place where it is always prohibited (such as on a red route, on double yellow lines, or in a disabled bay without displaying a valid badge) is considered more serious than overstaying where parking is permitted (for example, in a parking place).”*

- 1.15. The proposal to increase the Penalty Charge level for parking and loading (as well as bus lane and moving traffic offences) on the TLRN, is further supported by this established principle.

#### Public acceptability and delivering compliance

- 1.16. TfL has given serious consideration to its proposal to increase the level of the Penalty Charge over recent years, given its concerns that its existing level (£130) has become less effective as a deterrent.
- 1.17. TfL recognises the impact of the pandemic on the economy and the economic hardship that many people and businesses face as a result. TfL’s aim in enforcing TLRN restrictions, and the proposal to increase the Penalty Charge is to achieve compliance, and not to penalise drivers. TfL is aware (and this has been evidenced through the consultation on the proposed increase) that some freight and logistic businesses are prepared to absorb PCN costs as an operating cost rather than complying with the red route restrictions. This is a strong indication that the Penalty Charge is not set at a high enough level to deter contraventions.
- 1.18. There are clear and well-publicised representation and appeals processes in place for drivers to challenge PCNs. TfL has the discretion to extend early payment discount periods in exceptional circumstances. Penalty Charge income is used to cover the costs of enforcement and supports investment in improving the safety, reliability and security of London’s transport network overall.
- 1.19. Analysis of the 2,573 responses to the consultation received from members of the public showed that 34 per cent supported an increase to the Penalty Charge. This included 17 per cent who supported the proposal to increase the Penalty Charge to £160 and a further 17 per cent who thought the level should be set at a higher level for it to be an effective deterrent. A summary of responses to the consultation is included in section 4, below.

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

- 2.1. TfL, as the highway and traffic authority for the TLRN, is committed to improving the safety, sustainability and reliability of the TLRN. Now, more than ever, TfL needs to think creatively about how it designs, manages and operates the TLRN to balance the requirements of different road users, encourage more active travel and prevent a car-led recovery from the Covid-19 pandemic.

- 2.2. Over the last 10 years (since the Penalty Charge level was last increased) there has been a significant change in traffic flow and kerbside use on London's busiest roads. There has been substantial growth in delivery vehicles in London – both light vans and domestic, as a result of significant growth in demand for deliveries – and private hire vehicles, both contributing to worsening traffic congestion, air quality and slowing down of bus speeds and journey times. Road transport in London now accounts for 40 per cent of pollution in London, so TfL's management of road traffic will materially impact London's air quality.
- 2.3. Good compliance with road regulations is key to the safe and efficient operation of the TLRN. Poor compliance increases road danger and disruption, negatively impacting efficiency, predictable traffic flow and journey times. Examples of non-compliant behaviour and how it negatively impacts customers include:
- non-compliance at banned turns which puts vulnerable road users at risk
  - non-compliant use of bus lanes which impacts bus journey times, accessibility, customer experience and the attractiveness of public transport as an alternative to private car use
  - decreasing bus speeds and reliability also impact ridership, with knock-on impacts on revenue from bus travel
  - blocking junctions and roads which negatively impacts traffic flow, and can hinder (for example) the passage of emergency vehicles
  - non-compliance with controls on the TLRN which are designed to discourage stopping or parking where it is dangerous or disruptive to other road users.
- 2.4. The proposed increase to the Penalty Charge under a PCN for parking, loading, bus lane and moving traffic contraventions on the TLRN seeks to improve compliance with road regulations and thereby reduce these negative impacts.

### **3. Equality comments**

- 3.1. Under section 149 of the Equality Act 2010, as public authorities, the Mayor and TfL are subject to the public sector equality duty and must have 'due regard' to the need to:
- eliminate unlawful discrimination, harassment and victimisation
  - advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
  - foster good relations between people who share a relevant protected characteristic and those who do not.
- 3.2. Protected characteristics under section 149 are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status. 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.
- 3.3. The duty applies to the Mayor's decision to approve the level of Penalty Charge pursuant to schedule 9 of the Traffic Management Act 2004.

- 3.4. TfL recognises that the impact of this proposal may be felt hardest by drivers caught contravening the rules who are on low incomes or facing economic hardship. It could cause financial difficulties and impact their ability to pay the Penalty Charge (or their ability to pay at the discounted rate within 14 days, or at the increased rate after 28 days).
- 3.5. An equality impact assessment (EqIA) undertaken by TfL identified that an increase in the Penalty Charge level for TLRN contraventions could negatively impact individuals with protected characteristics relating to age, disability and race, as these characteristics are strongly linked to lower incomes. The EqIA also identified positive impacts for people with protected characteristics relating to age, disability and race. As more frequent users of bus services, people with these protected characteristics would benefit from improved bus accessibility and reliability. It also identified positive impacts in terms of health, accessibility and safety. The EqIA is attached at Appendix B.
- 3.6. While contraventions of TLRN restrictions cause safety risks and disruption for all road users, they unquestionably have a greater impact on disabled Londoners, some of whom will be unable to use public transport and depend entirely on the use of a car. A number of accessibility groups responded to the consultation supporting the proposal to increase the Penalty Charge to £160 or higher to provide a more effective deterrent.
- 3.7. The EqIA identified that the implementation of a higher-level Penalty Charge could impact on people on low incomes if these drivers contravened restrictions that are in place for the safety and reliability of the TLRN. Drivers can avoid penalties by complying with the TLRN restrictions. If a driver was issued with a penalty for a contravention, paying the PCN early (within 14 days) will see it reduced by half (as at present). Paying it within 28 days would continue to avoid the late payment penalty where the Penalty Charge would increase to £240 (after 28 days). TfL will make drivers aware of the restrictions through signage and road markings. Any driver who believes that they should not have received a PCN for a contravention on the TLRN or have mitigating circumstances has the legal right to challenge the PCN.

#### **4. Other considerations**

##### Key risks and issues

- 4.1. TfL adopted sound project management techniques in developing the proposals and planning for their implementation and is content that any risks have been appropriately mitigated.
- 4.2. Should the level of the Penalty Charge remain unchanged, the risk is that the deterrent effect will be further undermined and there will be a consequential detrimental impact on the safety and reliability (disruption and congestion) on the TLRN.
- 4.3. There are no conflicts of interest to declare from any officer involved in the drafting or clearance of this decision form.

##### Links to Mayoral strategies and priorities

- 4.4. This proposal helps to deliver on the objectives of the Mayor's Transport Strategy by reducing road danger, disruption and congestion.

##### Consultations and impact assessments

- 4.5. On 5 August 2021, TfL launched its consultation on the proposal to increase the PCN level for parking, loading, bus lane and moving contraventions on the TLRN. The consultation ended on 19 September 2021.

- 4.6. As part of the consultation, TfL delivered a marketing campaign to raise awareness of the proposal and encourage customers to have their say. A press release was issued and adverts were featured in a variety of London media and trade press titles.
- 4.7. TfL emailed over 1,217,835 customers and 1,871 stakeholders or stakeholder organisations to advise them of the consultation. Stakeholder groups included the London boroughs; transport and environment representative groups; motoring organisations; road danger reduction advocacy groups; and other organisations representing the voluntary and community sectors.
- 4.8. TfL also met with London Councils and the DfT to brief them on the consultation.
- 4.9. TfL received 2,573 responses to the consultation. Of these, 2,541 were from members of the public and 32 were from stakeholders.
- 4.10. Respondents were asked to complete a questionnaire that sought views on the proposed Penalty Charge increase as an effective deterrent; any hardships the proposals might cause to any particular road user or group of users and any other comments about the proposals.
- 4.11. Respondents were asked for their view on whether the proposed level of the Penalty Charge would be an effective deterrent. Out of the 2,573 responses to the consultation, 2,272 answered this specific question as follows:
  - 1,482 (65 per cent) considered £160 was too high to act as an effective deterrent
  - 393 (17 per cent) considered it was sufficient to act as an effective deterrent
  - 377 (17 per cent) considered it was not high enough to act as an effective deterrent.
- 4.12. In reviewing the 2,573 responses in the second theme, which focused on any hardships the proposals might cause to any particular road user or group of users, 2,202 provided their thoughts on this question.
- 4.13. Analysis of the responses to the open questions were grouped by themes into the following categories:
  - 255 comments of support,
  - 317 comments of general opposition to the proposal
  - 1,275 comments of opposition on financial grounds
  - 289 comments of opposition in relation to the proposed level of the Penalty Charge being a deterrent
  - 188 comments of opposition on equality and discrimination grounds
  - 134 comments providing suggestions.
- 4.14. Comments were provided by 27 of the 32 stakeholders. While the number of stakeholder respondents is lower than the number of responses from members of the public, analysis showed that 33 per cent supported or had no concern about the proposal. There were:
  - nine comments of support
  - two comments of general opposition to the proposal
  - 16 comments of opposition on financial grounds
  - five comments of opposition in relation to the proposed level of the Penalty Charge being a deterrent

- four comments of opposition on equality and discrimination grounds
- four comments providing suggestions.

4.15. The full consultation report is included in Appendix C, and will be published on the TfL Consultation page here: <https://haveyoursay.tfl.gov.uk/penalty-charge-2021>.

#### Publicity

- 4.16. Schedule 9 of the Traffic Management Act 2004 requires the Mayor to determine how TfL is to publish the level of the Penalty Charge that it sets.
- 4.17. If the Mayor approves TfL's setting of the increased Penalty Charge and the Secretary of State does not object to the increased level, it is proposed that the Mayor should require TfL to publish the new level of charge by way of a notice appearing in the London Gazette and the Evening Standard newspaper, and providing information on TfL's website. TfL will also publicise the change through a London-wide information campaign to make drivers aware of the increase.

### **5. Financial comments**

- 5.1. There are no direct financial implications for the Greater London Authority arising from this decision.
- 5.2. The cost of implementing the Penalty Charge increase – including system changes and the pan-London information campaign to make drivers aware of the increase – is around £160,000, which has been budgeted for by TfL.
- 5.3. The increase in the TLRN Penalty Charge is expected to result in an additional £14.2m in net income in 2022-23 based on current assumptions of enforcement activity and the introduction of new cameras in areas of high non-compliance. Net income may only be used for relevant transport purposes as per current Penalty Charge income.

### **6. Legal comments**

- 6.1. TfL's powers to issue Penalty Charges for contraventions of the rules which apply on the TLRN are set out in the London Local Authorities Act 1996; the London Local Authorities and Transport for London Act 2003 (2003 Act); and the Traffic Management Act 2004 (2004 Act). The procedure for the setting of the Penalty Charges in respect of the separate contraventions is governed by schedule 9 of the 2004 Act and section 4(13) of the 2003 Act. These provisions provide that before setting a Penalty Charge level, TfL must consult the London local authorities and such bodies as in TfL's opinion are sufficiently representative of road users who would be affected by its imposition. Having done so, TfL may then set the Penalty Charge level and must submit it for approval to the Mayor.
- 6.2. Having considered the proposal, if the Mayor approves the proposed increase, he is required to notify the Secretary of State of the level that has been set. The new level can then come into force one month later unless the Secretary of State objects to the level on the grounds that it is excessive under paragraph 4 of part 2 within schedule 9 of the 2004 Act. If there is no objection from the Secretary of State, TfL must then publish the level of the Penalty Charge as the Mayor determines. If the Secretary of State objects to the level of the Penalty Charge, TfL will not be able to introduce the new level of Penalty Charge until such an objection is withdrawn and the Secretary of State may set the level of the Penalty Charge by regulation.



## 7. Planned delivery and next steps

| Activity            | Timeline   |
|---------------------|--|
| Announcement        | Early January 2022 (or one month after the Mayor notifies the Secretary of State and if the SoS does not object) |
| Delivery start date | 17 January 2022 (or at least one week after the publication in the Gazette)                                      |

### Appendices and supporting papers:

- Appendix A – TfL-issued PCNs 2016 – 2021
- Appendix B – EQIA
- Appendix C – PCN Consultation Report

**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:**

Catherine Seaborn 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:**

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 6 December 2021

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature****Date**

D. Gene

6/12/21

**CHIEF OF STAFF:**

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

**Signature****Date**

D. Bellamy

6/12/21