

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2648

### **Title: Temporary changes to the Congestion Charge to support the Streetspace for London plan and TfL's response to the Covid-19 pandemic**

#### **Executive Summary:**

On 14 May 2020, a funding package was agreed with the Department for Transport (DfT). This addressed several matters relevant to the role Transport for London (TfL) is to play in supporting the Government's economic restart programme including the safe restart of the transport system in response to the Covid-19 pandemic ("the pandemic"). Under the package, at the Government's request, TfL is to reinstate road user charging schemes and urgently bring forward proposals to widen the scope and levels of road user charging schemes in accordance with its legal powers and decision-making process.

TfL has reviewed the scope, operation and charging levels of the Congestion Charging Scheme, with the aims of supporting the Mayor's Streetspace plan and facilitating the flow of essential traffic (including for key workers) in central London during the pandemic. On the basis of this review, TfL is proposing that the following temporary changes to the Congestion Charging Scheme are introduced from 22 June 2020:

- 1) Increase the charge level to £15;
- 2) remove the Auto Pay discount and Fleet Auto Pay discount;
- 3) increase the charge level for delayed payment to £17.50 and the time available to make a delayed payment;
- 4) extend the charging hours to 22:00;
- 5) operate the Scheme on a Saturday and Sunday 07:00 to 22:00;
- 6) operate the Scheme every day of the year (excluding Christmas Day);
- 7) close the residents' discount to new applicants (from 1 August 2020);
- 8) change the NHS Staff and NHS patient reimbursement rules to facilitate their expanded application; and
- 9) regularise the rules which apply to the newly introduced care home worker reimbursement arrangement.

Further work is to be done in association with stakeholders on new reimbursement arrangements for local authorities and charities who are providing support services directly in response to the pandemic. The rules which will apply to these new reimbursement arrangements will be drafted and refined by TfL following further engagement with stakeholders and will be the subject of a separate Mayoral decision.

**Proposed Decision:**

The Mayor:

1. CONFIRMS the Greater London (Central Zone) Congestion Charging (Exceptional Variation) Order 2020 (Appendix 1; “the Exceptional Variation Order”) having considered:
  - a) the views expressed by the public and stakeholders on the proposed changes as set out in this Form and in the Integrated Impact Assessment (Appendix 2; “the IIA”);
  - b) the IIA (Appendix 2);
  - c) the content of, and advice given in, this Form in particular, regarding the various matters for decision, including whether further information is required before making a decision and whether further consultation, or the holding of any inquiry, public or otherwise, is necessary or appropriate before making a decision; and
  - d) that the Exceptional Variation Order provides for temporary changes to the Congestion Charging Scheme and that TfL is to keep these changes under review.
2. DIRECTS TfL pursuant to section 155 of the Greater London Authority Act 1999 to exercise its functions in Schedule 23 of that Act for the purpose of further engaging with local authorities and charities with a view to establishing rules for a new Congestion Charge reimbursement arrangement for workers, including volunteers, who are providing services on behalf of a local authority or charity in direct response to the pandemic.

**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:** 15 June 2020

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

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

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

##### *The Congestion Charging Scheme*

- 1.1. The Congestion Charging Scheme (“the CC Scheme”) was introduced in central London in February 2003. The CC Scheme imposes a charge on all motorised vehicles being driven within the Congestion Charge Zone (“CCZ”) from 7am to 6pm, Monday to Friday, unless they are exempt or registered for a 100 per cent discount. The current level of the charge is £11.50 per charging day (reduced to £10.50 if paid by the ‘Auto Pay’ method).
- 1.2. The CCZ covers 21 square kilometres, which is around one per cent of the area of Greater London. The CCZ area accounts for less than two per cent of the vehicle kilometres driven in London.
- 1.3. The primary objective of the CC Scheme is to reduce traffic and congestion in the CCZ. To date, the CC Scheme has been very effective as a traffic reduction tool. The immediate effect of the introduction of the CCZ was a 30 per cent reduction in congestion in the zone and a 15 per cent reduction in circulating traffic and an increase in the use of public transport, walking and cycling in central London.

##### *Covid-19 pandemic (“the pandemic”)*

- 1.4. On 16 March 2020, the Prime Minister advised in the first Government pandemic press conference that workers should work from home where possible and avoid social contact. Social distancing measures were further increased from 20 March 2020 with the closure of schools, bars, shops and restaurants. On 23 March 2020, the Government announced that individuals would only be allowed to leave their homes for specific, limited purposes and public gatherings were restricted in what is described as the beginning of ‘lockdown’.<sup>1</sup>
- 1.5. On 20 March, TfL decided to suspend the operation of its road user charging schemes, namely, the CC Scheme and Ultra Low Emission Zone in central London and the Low Emission Zone in Greater London with effect from 23 March. This decision was made so as to facilitate the movement of London’s critical workers, particularly those providing services to the NHS, as well as freight and other vehicles supporting London’s supply chain requirements whose journeys were essential to the early response to the national emergency caused by the pandemic.
- 1.6. There were significant reductions in traffic based on a month on month comparison of the previous year during the early phase of lockdown. In the first two weeks, traffic on TfL’s road network, the TLRN, was down 47 – 49 per cent on weekdays and around 60 per cent on weekends, compared to levels seen in early March. However, after the week commencing 30 March, traffic levels began to increase.
- 1.7. The chart below shows how traffic from all vehicle types in the CCZ dropped initially and has increased as Government advice has changed. Traffic dropped sharply after the announcement on 23 March and the week commencing 30 March saw the lowest overall levels (around a 60 per cent reduction compared to early March). Since then, however, vehicles in the CCZ have increased, both during the week and weekend. By 11 May,

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<sup>1</sup> From 26 March 2020, lockdown restrictions become legally enforceable: The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

weekday car traffic levels in central London areas were six per cent above pre-lockdown levels. There was another drop during week commencing 18 May when the CC was reinstated, but in the following week, traffic started to increase again.

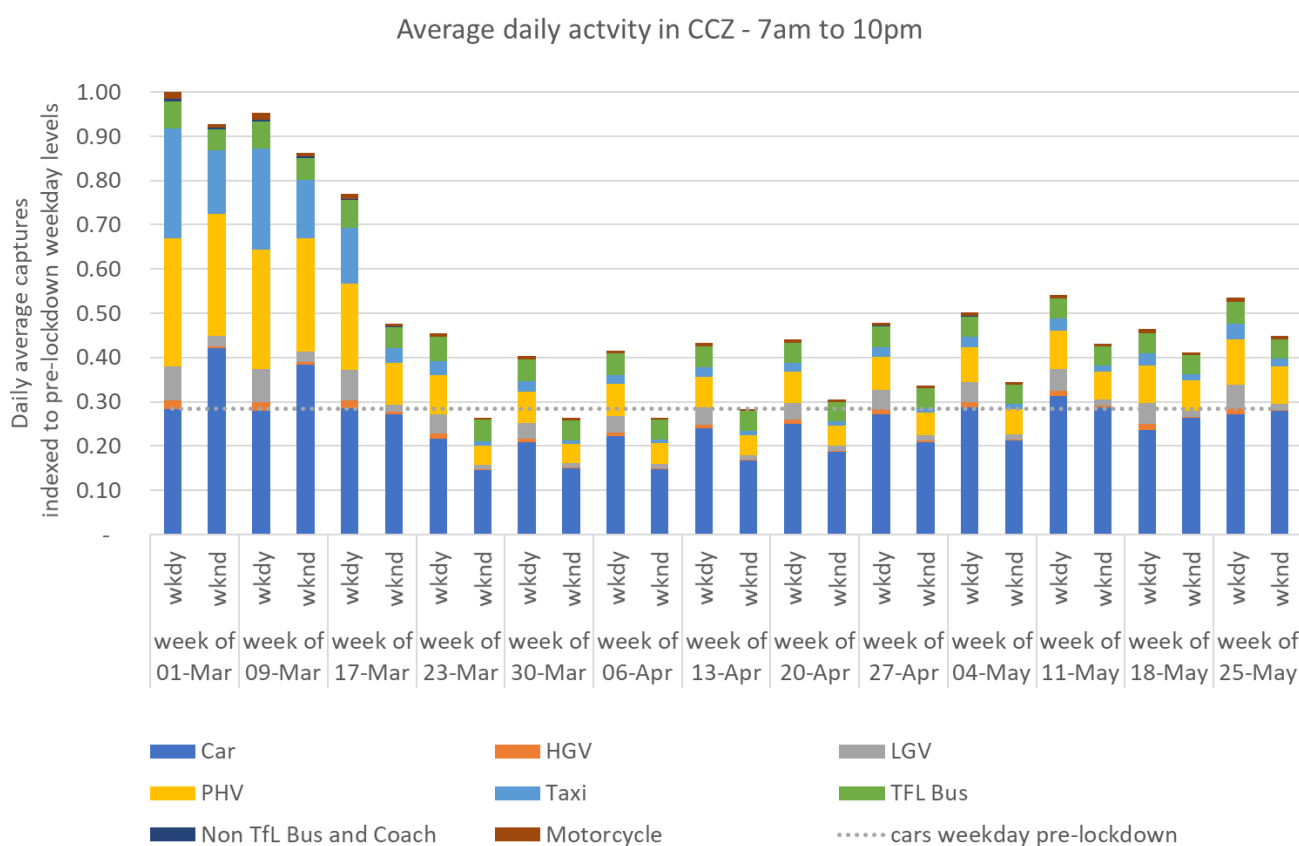


Figure 1: Average daily activity in the CCZ from pre-lockdown to week commencing 25 May

- 1.8. On 14 May, a funding package was agreed with the Department for Transport (DfT). This addressed several non-financial matters relevant to the role TfL is to play in supporting the Government's economic restart programme including the safe restart of the transport system. One aspect of this was that, at the Government's request, TfL was to reinstate road user charging schemes and urgently bring forward proposals to widen the scope and levels of road user charging schemes in accordance with its legal powers and decision-making process. The reinstatement of the Congestion Charging Scheme and these proposals to increase the charge and extend the hours of operation were raised through the London Covid-19 Transport Taskforce and the Government has confirmed it is supportive.
- 1.9. The CC Scheme, LEZ and ULEZ were reinstated on 18 May 2020 after having been suspended for seven weeks. By this point, car traffic levels in the CCZ had surpassed pre-lockdown levels on weekdays, despite the very large number of people working from home and the continued legally enforceable restraints on economic and social activity. The reintroduction of the charge brought them back to below normal levels, but they quickly returned to a rising trajectory and just one week later they were already very close to normal levels once again.
- 1.10. TfL, as the statutory authority responsible for transport in London, is now considering the next stage of its continuing response to the pandemic to ensure that transport facilities and services to, from and within London are delivered in accordance with the Mayor's transport

duty. TfL is also mindful of its network management duty under the Traffic Management Act 2004, which requires it to ensure that road networks are managed effectively.<sup>2</sup>

- 1.11. Restrictions on and measures to support changes to the way Londoners can travel are needed to reduce the risk of infection and spread of the virus. The need for social distancing is likely to continue for the foreseeable future. This creates an immediate and continuing travel demand challenge for TfL to ensure that Londoners can move around as safely as possible.
- 1.12. The Government has set out a 'Covid-19 recovery strategy'<sup>3</sup> which includes a timetable for lifting restrictions dependent on the successful control of the pandemic. The UK has recently moved into phase two of the Government's response, following the first phase where the Government sought to contain, delay, research and mitigate the impact of the virus. Phase two focuses on smarter controls to replace existing social restrictions. Primary schools in England have recently re-opened for some year groups for pupils beyond those they accepted during lockdown. Resumption of trading by 'non-essential' retailers and the restart of some sporting events, held behind closed doors is expected imminently.
- 1.13. The subsequent step in easing lockdown restrictions will start no earlier than 4 July. This would see some remaining businesses, facilities, services as well as public spaces reopen, including places of worship, which would be expected to place further demand on London's transport network.
- 1.14. The Government has stated that throughout phase two people will need to minimise the spread of the virus through continuing good hygiene practices: hand washing, social distancing and regular disinfecting of surfaces touched by others. The Government has further stated that these measures will be in place for some time.
- 1.15. Continued social distancing presents a unique set of challenges for the transport network. London's public transport capacity will be severely reduced in order to accommodate social distancing.
- 1.16. It is estimated there will need to be around an 80 per cent reduction in effective public transport capacity to support social distancing measures for passengers who have a need to travel by these modes. Many stations and bus stops now have social distancing markers, one-way and queuing systems in place to facilitate social distancing by helping control the flow of passengers. A double decker bus in London can now only accommodate 20 passengers as opposed to a usual capacity of around 70 passengers.
- 1.17. Such reduced capacity on public transport means that millions of journeys will need to be made by walking and cycling instead. TfL anticipates that there could be up to a ten-fold increase in cycling and five-fold increase in walking, compared to pre-pandemic levels, when lockdown restrictions are further eased. In practical terms, there is simply not enough road space or capacity in the CCZ area to accommodate that volume of journeys by car, or on a social distanced public transport network.

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<sup>2</sup> As discussed in paragraph 1.20 below, the Secretary of State for Transport has recently issued statutory guidance regarding the exercise of the duty in response to Covid-19. See the Traffic Management Act 2004: Network Management in Response to COVID-19 <https://www.gov.uk/government/publications/reallocating-road-space-in-response-to-covid-19-statutory-guidance-for-local-authorities/traffic-management-act-2004-network-management-in-response-to-covid-19>

<sup>3</sup> <https://www.gov.uk/government/publications/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy#our-approach-a-phased-recovery>

1.18. The Government's travel advice is to avoid public transport and walk or cycle instead and where that is not possible, to drive. TfL is responding to the easing of lockdown restrictions by central Government and is seeking to restrict the use of public transport to the most essential journeys, while investing in walking and cycling. This will help those who have a need to continue using public transport to maintain social distancing while travelling. In London, however, and particularly in the central activity zone, a significant switch to private car use would be impractical and risk high levels of congestion with damaging economic and environmental effects.

*Response to the pandemic*

1.19. In recognition of the fact that public transport capacity will be severely constrained with social distancing measures in place, and that many more people will need to be able to walk and cycle in order to get to work and access services, the Government has developed guidance<sup>4</sup> that sets out high-level principles to help local authorities manage their roads including what actions they should take. This additional statutory guidance has been issued by the Secretary of State for Transport under section 18 of the Traffic Management Act 2004. It applies to all highway authorities in England (of which TfL is one), who are required to have regard to the guidance to deliver their network management duty under the Act. The Secretary of State for Transport states in his introductory text to the Guidance that "The government ... expects local authorities to make significant changes to their road layouts to give more space to cyclists and pedestrians."

1.20. It further sets out that 'active travel is affordable, delivers significant health benefits, has been shown to improve wellbeing, mitigates congestion, improves air quality and has no carbon emissions at the point of use'. The guidance urges authorities to ensure transport networks support a lasting legacy of greener, safer transport.

1.21. The Mayor has launched the Streetspace for London plan in order to reduce the pressure of demand on the public transport system. The plan's aim to make it easier and safer for Londoners to walk and cycle in greater numbers and enable social distancing while doing so.

1.22. The Streetspace for London plan focuses on three key areas:

- Providing temporary additional space for walking at locations likely to become crowded, such as local town centres, transport hubs and parts of the Central Activities Zone. Lanes on TfL roads have been removed or narrowed to provide additional walking space.
- Providing temporary pop-up strategic cycle lanes, including mirroring (as far as possible) the routes of some London Underground lines, where TfL will need Londoners to switch mode.
- Delivering more low traffic neighbourhoods to assist with a higher level of walking and cycling to and from local town centres and schools, retaining the improved air quality from reduced motor traffic trips, and giving space and safety for social distancing and sustainable travel.

1.23. The inevitable consequence of the plan is that the reallocation of greater parts of the highway to pedestrians and cyclists will result in less space for motorised vehicles.

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<sup>4</sup> Traffic Management Act 2004: network management in response to COVID-19  
<https://www.gov.uk/government/publications/reallocating-road-space-in-response-to-covid-19-statutory-guidance-for-local-authorities/traffic-management-act-2004-network-management-in-response-to-covid-19> See footnote 2 above.

- 1.24. TfL has issued borough guidance for the programme including inviting boroughs to put forward projects for funding. In the short term, the financial situation has required boroughs, and TfL, to pause existing programmes of work and instead prioritise the Streetspace for London plan.
- 1.25. The Congestion Charge was reinstated on 18 May, in line with car traffic levels returning to pre lockdown levels. It was predicted that even with the existing Congestion Charge back in place, car traffic would reach pre lockdown levels again by mid-June. This has proven to be the case, with car traffic back at 99 per cent of pre lockdown levels by 12 June. In order to prevent further growth in traffic and reverse the trend, as well as to support the streetspace changes being progressed by TfL and the City of London throughout June, the proposed implementation date for the changes to the CC Scheme is 22 June. This date also allows measures to be put in place before further potential changes to lockdown restrictions on 4 July and provides sufficient time to prepare the necessary operational changes.

#### *Congestion Charge proposals*

- 1.26. As mentioned above, Government guidance issued on 12 May urged people to avoid public transport to reduce pressure on the network and for those that need to travel to work to do so by walking, cycling or, where that is not possible, by car. As lockdown restrictions are eased, the priority for TfL is to get London moving again, safely. Whilst people start to increase the number of journeys they make, it is important that action is taken now to avoid a car-based recovery from the pandemic. A car-based recovery would not practically be possible inside the CCZ, where traffic levels and congestion are in any event high. Increased traffic in the CCZ would impair the ability of TfL and boroughs to provide for safe social distancing for pedestrians, space for cyclists and those waiting to access public transport. It would also pose significant risks in terms of safety and public health, economic recovery and the environment including air quality. It would therefore run counter to the objectives of the Mayor's Transport Strategy and the London Environment Strategy.
- 1.27. The third phase of the Government's lockdown strategy could bring around a third of 'usual' activity back into the CCZ. With severely constrained public transport capacity many people may turn to use of a car, and even before further easing of lockdown car usage on weekdays is already broadly at pre-pandemic levels. TfL modelling predicts that with a car-based recovery, if 30 per cent of pre-pandemic economic activity returns to central London, car traffic could double even with the current CC Scheme in place.
- 1.28. Polling undertaken in April by YouGov on behalf of the GLA suggests that many Londoners are considering using their cars as a public transport alternative due to the pandemic. The poll reported that 38 per cent of Londoners will use public transport less than prior to the outbreak. Amongst those who said they would use public transport less, driving remains the second most popular alternative (41 per cent of those who would use public transport less said they would travel by car). Walking is the most popular alternative (50 per cent of those who said they would use public transport less said they would travel on foot).
- 1.29. Congestion already costs the London economy around £5 billion per year, with London drivers losing 227 hours per year to congestion. Lower levels of traffic help to make essential journeys faster and more cost efficient for businesses, as well as protecting Londoners (especially those most vulnerable) from the ill effects of poor air quality. The road network needs to function effectively, with minimal congestion, for essential traffic such as emergency service responders, freight and servicing trips.

- 1.30. An efficient road network will also help us to shorten bus journey times and ensure those who need to use the buses are not subject to longer journeys than necessary. Key workers, essential to responding to the pandemic, may be reliant on buses to travel to and from work and there is a need to ensure their journeys are as quick as possible. An increase in congestion would mean that bus journeys take longer, putting pressure on capacity which could lead to buses becoming fuller. This could impact on the ability of passengers (and drivers) to social distance.
- 1.31. A car-based recovery will not allow sufficient space on the roads to support social-distanced walking, cycling and the effective operation of the bus network for passengers. There is simply not space on central London streets to implement interventions to allow people to walk and cycle safely while observing social distancing guidelines with predicted increases in car journeys. This could restrict active travel at a time when fitness is important, as it can help people become more resilient to illness. Restricting traffic flows in central London is the only way to facilitate effective social distancing on London's busy streets and keep people safe, minimising interactions and conflict between vulnerable road users and motorised vehicles. This is vital to help meet the Mayor's Vision Zero aim as set out in the Mayor's Transport Strategy.
- 1.32. In addition, a car based recovery would worsen air quality. There is a substantial body of evidence that demonstrates that poor air quality stunts the growth of children's lungs and worsens chronic illness, such as asthma, lung and heart disease. There is also emerging evidence linking air pollution with an increased vulnerability to the most severe impacts of COVID-19. Air pollution in London dramatically improved during the lockdown period. A car based recovery would increase air pollution and could undermine the recent improvements in air quality delivered by schemes such as the ULEZ. It would also jeopardise delivery of the Government's 2017 Action Plan for addressing roadside nitrogen dioxide pollution which was issued in response to London's continuing breach of limit values for that pollutant; the Plan forecasts London becoming compliant by or before 2025 if its measures are implemented and effective, including the ULEZ.
- 1.33. Further action is required to prevent these negative impacts by deterring motorised traffic from coming into the centre of London and making clear the very high value of the tightly constrained road space in the CCZ area. The CC Scheme is an important and effective mechanism to manage traffic levels in central London.
- 1.34. A temporary package of measures to change the CC Scheme is proposed to prevent streets in central London becoming unusably congested and to support the transformation of London's streets as part of the Streetspace for London plan. In order to achieve this ambitious reallocation of road space to support safe walking and cycling, general traffic levels must be reduced. To do otherwise would risk London's sustainable recovery from the pandemic. Alongside this, however, it is important that appropriate steps are taken to support certain key workers.
- 1.35. TfL, as the charging authority for the CC Scheme, is therefore proposing the following changes be made to the CC Scheme on a temporary basis ("the Proposed Changes"):
  - a) Increase the charge level to £15;
  - b) remove the Auto Pay discount and Fleet Auto Pay discount;
  - c) increase the pay next day charge to £17.50 and lengthen the time available to make delayed payment to the next three days after travel;
  - d) extend the charging hours to 22:00;



- e) operate the Scheme on a Saturday and Sunday;
- f) operate the Scheme every day of the year (excluding Christmas Day);
- g) close the residents' discount to new applicants;
- h) change the NHS Staff reimbursement rules to facilitate their expanded application;
- i) change the NHS patient reimbursement rules so that it applies more widely to patients the NHS consider are at most risk of Covid-19; and
- j) regularise the newly introduced care home staff reimbursement scheme.

1.36. As a result of the issues identified in the Integrated Impact Assessment and raised by stakeholders and the public, further reimbursement arrangements for local authorities and charities who are providing services directly in response to the pandemic are also under consideration and will form part of the proposed package of temporary measures. The rules which will apply to these new reimbursement arrangements will be drafted and refined by TfL following further engagement with stakeholders and will be the subject of a separate Mayoral decision. A change to the proposed date on which the closure of the residents' discount comes into effect is also proposed. These mitigations are explained further in section 4 'New Mitigations'.

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

- 2.1. This section summarises the Proposed Changes and their implications and draws on information from the Integrated Impact Assessment (IIA).
- 2.2. The Proposed Changes are intended to ensure that traffic on roads in central London is reduced so that essential journeys can continue to take place whilst recognising that certain people making those journeys should not be subject to the charge (critical health workers, charities/local authorities directly responding to the crisis and those at the greatest risk of Covid-19). The changes will also help to protect bus journey times, make space for walking and cycling, reduce interaction and conflict between vulnerable road users and motorised traffic, and will enable people to maintain social distancing, particularly at busy times. It will also help to protect air quality and maximise the health benefits for Londoners.

### *Proposal 1: Increasing the charge level to £15*

- 2.3. The proposal is to increase the daily charge from £11.50 to £15. (The charge will also be increased to £17.50 for those paying up to three days later – see paragraphs 2.12 – 2.13 below).
- 2.4. The charge level was last increased in 2014 when it was increased from £10 to £11.50. Previous changes to the charge level were made in 2011 when the charge increased from £8 to £10 and in 2005 when the charge increased from £5 to £8.
- 2.5. 2014 to 2020 is the longest period of time in which an increase to the charge has not been made (although in that time, exemptions and discounts have changed, most notably, the removal of the exemption for non-wheelchair accessible PHVs in April 2019).<sup>5</sup> The proposed increase would enhance the deterrent effect of the charge and send a strong message about the very high value of the tightly constrained road space in central London following the introduction of the London Streetspace plan.

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<sup>5</sup> This decision is currently the subject of a judicial review challenge to the Court of Appeal.

- 2.6. The charge increase is expected to result in up to a seven per cent reduction in car trips into the zone during current charging hours.

*Proposal 2: Removing the Auto Pay discount and Fleet Auto Pay discount*

- 2.7. Auto Pay was introduced in January 2011. Customers who are signed up to Auto Pay are billed automatically for the number of charging days their vehicle travels within the Congestion Charging Zone. There are two Auto Pay options, Auto Pay and Fleet Auto Pay.
- 2.8. Auto Pay was introduced to make it easier for the public to pay the charge and remove the risk of them incurring a Penalty Charge Notice for forgetting to do so. A £1 discount for using Auto Pay was introduced to incentivise people to adopt this form of payment. Removing the discount reinforces the principle that access to central London road space should not be discounted at this time for anyone liable to pay the full charge. Road space must be prioritised for public transport, emergency services, active travel essential trips, freight and servicing.
- 2.9. At present, 84 per cent of customers pay the Congestion Charge via Auto Pay so the £1 discount has already proved successful in incentivising customers to sign up for this payment method. Even without the discount, it is beneficial for customers to pay via Auto Pay as it is the most straightforward method, removes the administrative burden of paying daily charges and removes the risk of needing to make a payment at a higher charge level in the day/s after travel or accidental non-payment and associated penalty charges.
- 2.10. It is proposed that the discount for Fleet Auto Pay will also be removed. Fleet Auto Pay is available for businesses with fleets of six or more vehicles and enables them to add multiple vehicles to a single account. Like standard Auto Pay, it means that vehicles are eligible for a £1 discount when they pay through a fleet account. As with Auto Pay, those using fleet accounts have the benefit of charges being automatically deducted, reducing administrative burden and ensuring Penalty Charge Notices (PCNs) are not inadvertently incurred.
- 2.11. It is proposed to remove the Fleet Auto Pay discount in line with the removal of the AutoPay discount to reflect the fact that it is not appropriate to discount access to central London road space during this emergency period for those who are liable to pay the full charge.

*Proposal 3: Increase pay next day charge to £17.50 and lengthen time available to make delayed payment*

- 2.12. It is proposed that the pay next day charge, currently set at £14, is increased to £17.50 and that the deadline for making a delayed payment will be increased from one day to three days after the day of travel. (Failure to pay after that deadline will result in a penalty charge notice being issued in the normal way.)
- 2.13. This proposal provides drivers with additional time to pay the charge and ensures that the level is set in line with the proposed charge increase.

*Proposal 4: Extending the charging hours to 22:00*

- 2.14. The current charging hours run from 07:00 to 18:00 to reflect peak traffic hours in 2010 when the hours were last changed. Prior to lockdown, data from TfL shows that entries into the zone during the week increase after charging hours end and stay high until around 22:00.

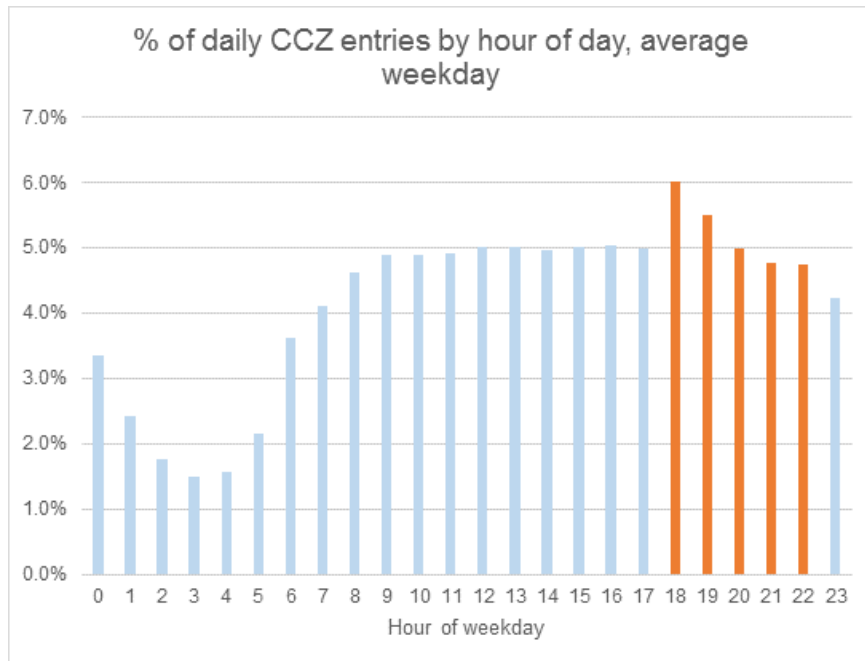


Figure 2: Graph to show percentage of entries into the CCZ by hour of day on an average weekday

- 2.15. We expect that this existing pattern will be further exacerbated once lockdown restrictions are eased and that there will be an extension to peak hours as people stagger their working hours to avoid peak travel times and help to maintain social distancing.
- 2.16. The changes to the road network to be introduced by the Streetspace for London plan described above will be in place 24 hours a day. Therefore, there is a need to suppress traffic levels beyond current CC Scheme hours.
- 2.17. The charging hours need to reflect the likely fluidity of peak hours of travel in order to maintain the deterrent effect to car use and ensure that bus journey times and trips made on foot and by cycle can be accommodated safely and efficiently throughout the day and evening.
- 2.18. The new proposed hours of operation are 07:00 to 22:00. This is expected to reduce car trips to the zone by c. 33 per cent and car kilometres by 16 per cent during the extended hours of 18:00 to 22:00 with a £15 charge.

*Proposal 5: Operating the Scheme on a Saturday and Sunday*

- 2.19. The CC Scheme currently operates Monday to Friday, reflecting when congestion was at its highest when the Scheme was introduced. Prior to lockdown, data from TfL shows that Saturday had the highest number of total daily entries across the week, followed by Sunday.
- 2.20. There is expected to be an increase in car use at the weekends once lockdown restrictions are eased, particularly as non-essential retail and leisure facilities reopen. With the need to social distance and reduced public transport capacity, the car is likely to become a more attractive mode of travel, especially for leisure users.
- 2.21. As stated above, the Streetspace for London plan to reallocate road space away from general traffic to accommodate increased numbers of people walking and cycling at a safe

social distance will be in place seven days a week. Therefore, there is a need to suppress traffic levels beyond the current days of operation.

- 2.22. The proposed hours of operation on Saturdays and Sundays are in line with the proposed extended weekday hours from 07:00 to 22:00. This change is intended to deter the use of private vehicles at the weekends, when public transport capacity constraints and changes to the road network will be in place, as they are during the week.
- 2.23. The new proposed hours are 07:00 to 22:00. This is expected to reduce car trips to the zone by c. 33 per cent and car kilometres by 16 per cent during the newly charged days extended hours of 18:00 to 22:00 with a £15 charge.

*Proposal 6: Operating the Scheme every day of the year (excluding Christmas Day)*

- 2.24. The CC Scheme currently operates Monday to Friday excluding public and Bank Holidays and the period between 25 December and 1 January. The CC Scheme is now proposed to operate every day of the year except for Christmas Day.
- 2.25. This will bring the CC Scheme in line with the Ultra Low Emission Zone (ULEZ) which also operates every day except for Christmas Day. This will help to ensure that there is sufficient space for pedestrians and cyclists to travel safely in the zone at all times.
- 2.26. As the CC Scheme is proposed to apply seven days a week as the ULEZ does (though the hours of operation remain different), it is operationally simpler and easier for customers to understand if it aligns with the ULEZ days of operation. It also reflects the fact, as outlined in the sections above, that changes to the road network and public transport capacity are in place every day with reduced levels of traffic required accordingly.

*Proposal 7: Closing the residents' discount to new applicants*

- 2.27. Residents in the Congestion Charge Zone who are registered for the residents' discount receive a 90 per cent discount to the Congestion Charge in recognition that they are unable to avoid the charge if they need to drive. An equivalent discount does not apply to the ULEZ because the charge can be avoided by using a compliant vehicle. This was the rationale for introducing the discount when the scheme was introduced 17 years ago. Currently less than 25 per cent of central London households own a car. Unlike in many parts of the country, car ownership levels are relatively low in central London. If the level of charge is increased (proposal 1), registered residents will pay an equivalent daily charge of £1.50 instead of £1.15 (or £1.05 if they had previously paid by Auto Pay).
- 2.28. Recent public surveys on the impact of the pandemic have revealed that 56 per cent of UK licence holders are considering purchasing a car if they don't already have one<sup>6</sup>. To ensure that the residents' discount does not provide an incentive to new residents of central London to purchase a car on the basis that they would receive a 90 per cent discount, it is proposed to temporarily close the scheme to new applicants (either new residents of the zone or existing residents who are newly considering registering for the discount).
- 2.29. This proposed change is unlikely to have significant traffic impacts in the very short term but it is proposed in order to discourage increasing levels of car use by residents who have not previously driven in the zone. The aim is to avoid promoting a car-led recovery from the pandemic by the availability of the residents' discount.

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<sup>6</sup> <https://plc.autotrader.co.uk/press-centre/news-hub/consumers-set-to-abandon-public-transport-as-a-result-of-covid-19/>

- 2.30. Residents who are already registered for the discount will continue to be eligible and able to renew their discount for their currently registered vehicle and any replacement vehicles.
- 2.31. The CC Scheme residents' discount is also relevant to the operation of the ULEZ Scheme. A qualifying resident who is registered for the Congestion Charge residents' discount is also eligible for a 100 per cent discount to the ULEZ and instead pays the T-Charge at a discounted rate of 90 per cent if the resident's vehicle does not meet the required emissions standards.<sup>7</sup> This arrangement is in place until 25 October 2021 (when the ULEZ expands to inner London). The closure of the CC Scheme residents' discount to new applicants means that the following categories of people will be liable to pay the ULEZ charge as a consequence:
- existing residents who purchase a new vehicle which does not comply with the ULEZ standard and are not already registered for a residents' discount; or
  - new residents who move into the CCZ and who already own a vehicle which is not compliant with ULEZ emission standards will be liable to pay the ULEZ charge. Compliance levels for cars in ULEZ is 89 per cent (January 2020).
- 2.32. As stated above, closure of the residents' discount to new applicants is intended to deter residents who have not previously driven in the zone from switching to car journeys. It is also considered prudent for these same residents not to benefit from the ULEZ sunset period by purchasing or using older, more polluting vehicles that are not compliant with ULEZ standards.
- 2.33. New residents will remain eligible for other discounts which do not rely on residency as a qualifying criteria, for example, the cleaner vehicle discount which currently applies to vehicles that are Euro 6, emit no more than 75g/km of CO<sub>2</sub> and have a minimum zero-emission capable range of 20 miles. New residents with a disability may continue to apply for the Blue Badge discount. A change to the proposed closure date for the residents' discount has been identified as a mitigation in response to impacts identified in the Integrated Impact Assessment and issues raised.

*Proposal 8: Changes to facilitate the expanded NHS staff reimbursement rules*

- 2.34. In recognition of the essential role that NHS workers are playing in responding to the impacts of the pandemic, TfL temporarily expanded the existing NHS staff reimbursement scheme to include more eligible journeys from 18 May. It did so in reliance on existing rules in the CC Scheme which provide for reimbursement (by TfL) of journeys which are made by NHS staff providing services in respect to an emergency or other extraordinary circumstances, including journeys to and from work where deemed eligible by the NHS Trust.
- 2.35. The reimbursement arrangements have had an expanded application because NHS workers may in the course of their work come into close contact on a regular basis with potentially large numbers of people with the coronavirus. As a result, they are at risk of infecting people they come into contact with, placing vulnerable people at risk and increasing the burden on the NHS. There is a need to ensure they can, if they wish, travel to work by car

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<sup>7</sup> Minimum emissions standards are Euro 4/IV for petrol and diesel vehicles and Euro 3 for motorised tricycles and quadricycles. Residents who are registered for the Congestion Charge residents' discount and who are also liable to pay the T-Charge pay £1 (90% of £10) in addition to the Congestion Charge or £2.05 in total. If the Congestion Charge level is increased to £15 (proposal 1), the sum will increase to £2.50 (£1.50 + £1).

to reduce the risk of them coming into contact with others as they travel to and from workplaces with potentially high levels of infection.

- 2.36. To facilitate the expanded NHS reimbursement arrangement as confirmed by TfL's Commissioner on 14 May 2020, two minor changes to the Scheme Order are proposed. These involve deleting the reference to 'on-call' staff and the requirement for the NHS employer to reimburse travel expenses in addition to the Congestion Charge. This will have the effect of opening the reimbursement scheme up to a wider range of trips, to better support the needs of NHS workers undertaking pandemic response activities.

*Proposal 9: Regularise the introduction of the care home staff reimbursement arrangement*

- 2.37. In recognition of the critical role care home workers are playing during the current Covid-19 pandemic, a temporary staff reimbursement arrangement for care home workers who work for a care home within the CCZ has been offered by TfL since the CC Scheme was reinstated on 18 May 2020. It is now proposed that the arrangement is formalised within the CC Scheme Order.
- 2.38. The reimbursement arrangement recognises that care home workers, like NHS staff, come into close contact on a regular basis with potentially high numbers of people with the coronavirus. Due to this they are at risk of infecting people, putting more vulnerable people at risk. This could increase the burden on the NHS if increased numbers are admitted to hospital or require medical attention.
- 2.39. There is a greater need to ensure that care home workers, like NHS staff, can travel into work by car to reduce the risk of coming into contact with others as they commute to workplaces with potentially high levels of infection.
- 2.40. The reimbursement arrangement applies to care home workers who are travelling for the purpose of providing services at a residential care home or nursing home, which is located within the Congestion Charging Zone. This covers commuting to and from the care home, as with the extended NHS reimbursement arrangement.
- 2.41. The arrangement will support employees of Care Quality Commission registered care homes within the zone.

*Proposal 10: Expand the scope of the NHS patient reimbursement rules so that they include patients who are most at risk if they contract Covid-19*

- 2.42. In response to impacts identified in the Integrated Impact Assessment and concerns raised by stakeholders and the public, it is proposed to expand the scope of the NHS patient reimbursement scheme. Since this involves changing an existing arrangement, this can be included in the changes it is proposed will be implemented on 22 June (other newly proposed reimbursement schemes will need to be further developed to come into effect later, to give time to develop the appropriate criteria and operational arrangements).
- 2.43. The NHS has published a list of people who are at high risk (clinically extremely vulnerable) and moderate risk (clinically vulnerable) from Covid-19. The current NHS patient reimbursement rules will apply to some of these people but not all and only allows for reimbursement if the patient is already too ill, weak or disabled to travel by public transport to a NHS appointment in the CCZ.
- 2.44. The proposal is to extend the current rules so that they apply more widely to include people who the NHS regards as being at high or moderate risk if they were to contract Covid-19.

Additionally, the patient would be eligible for reimbursement irrespective of whether they are well enough to travel by public transport to their appointment. The rules apply to the vehicle that is used to transport the patient. This does not have to be their own car.

- 2.45. This change recognises that people who are at risk of Covid-19 may not have an alternative means of transport to a car when undertaking an essential journey to attend an NHS hospital appointment in the CCZ.
- 2.46. As with other reimbursement arrangements, the patient will need to claim a refund through the NHS who in turn will be reimbursed by TfL. The NHS will need to be satisfied that the patient falls within the current list of at risk people. This change to the NHS patient reimbursement scheme is further discussed in section 4 'New Mitigations'.

### **3 Equality comments**

- 3.1. Under s 149 of the Equality Act 2010 ('the Equality Act'), as public authorities, the Mayor and TfL must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not when exercising their functions. This is known as the Public Sector Equality Duty. Protected characteristics under the Equality Act are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination only). In line with best practice, the impact on groups who also have the potential to be socially excluded, in this case, people on low incomes or from deprived communities, 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. The Public Sector Equality Duty applies to the Mayor's decision to confirm the Exceptional Variation Order.
- 3.3. An Integrated Impact Assessment (IIA) has been undertaken, which includes an equality impact assessment of the Proposed Changes on a range of subject areas. This is at Appendix 2. The IIA found that there are anticipated to be some impacts, both positive and negative, to individuals with protected characteristics. In summary, these are as follows:

#### Age

- 3.4. For many older people who do not have access to a car and want to enter the CCZ during charging hours, the proposed changes will be beneficial by improving conditions for walking and cycling. Where public transport is an option for older people, the proposed changes may have a negative impact by increasing numbers using public transport. However, bus journey times (and therefore length of exposure whilst on the public transport network) will be reduced by lower congestion.
- 3.5. For those that do have access to a car and wish to drive it into the CCZ during charging hours, they may find it more difficult to make journeys due to the increased cost of using their own vehicle or a non-wheelchair accessible PHV. This will be mitigated to a certain extent if the person qualifies for an existing discount, exemption or reimbursement such as the Blue Badge discount or Cleaner Vehicle Discount. In addition, there is an option to travel by black taxi or designated wheelchair accessible PHV as they are exempt from the Congestion Charge and fares will be unaffected by changes to the charge.

- 3.6. For older self-employed professional drivers (such as drivers of non-wheelchair accessible PHVs), there could be negative impacts as they may have to work longer or accept a reduction in their income (though this could be balanced by the ability to complete more trips in the same time due to lower levels of traffic and congestion). This could have a particular impact on older people as they are more likely to suffer poor health that would make working longer harder and they are more at risk from Covid-19. Although the vast majority of self-employed professional drivers are under the age of 65 (97.7 per cent of PHV drivers are under 65). This impact is mitigated by the fact that the proposed changes are temporary in nature and due to the pandemic, customer demand to enter the zone is likely to be lower (e.g. as social venues are either closed or people are more reluctant to visit them), though this may start to increase as lockdown restrictions ease. Mitigations are also available for some groups (e.g. drivers of non-wheelchair accessible PHVs may be able to spread the cost of the charge or avoid the CCZ).
- 3.7. For younger people, it is expected that they will have the greatest capacity to walk and cycle within the zone and, therefore, will have less need to make trips by car, particularly given the increased provision for walking and cycling. GLA data suggests that those aged 18-24 are least likely to switch to using a car from public transport since lockdown began.
- 3.8. Children are more at risk of being injured in road collisions and, as such, will benefit more from the expected positive impacts on road safety and improvements in air quality.
- 3.9. Young people are particularly likely to fear being the victim of crime when using public transport or walking and, as such, may be negatively impacted if they use these modes instead of driving. People walking or cycling in greater numbers may help to mitigate this impact.

#### *Disability*

- 3.10. During the pandemic, overall trips will continue to be suppressed as people in general stay at home more and there is an on-going need for disabled people with conditions that make them more susceptible to the impacts of the virus to shield themselves. This is reflected through a survey conducted with TfL's My London Journeys panel who have a range of accessibility needs. Just under 50 per cent said they are not travelling at all at the moment. However, the desire for disabled people to use a car for essential trips is likely to increase compared to before the pandemic amongst those who are more at risk from the virus and, therefore, have a greater need to social distance.
- 3.11. For disabled people who want or need to walk, cycle or use public transport, the proposed changes to the Scheme will benefit them. Prior to the pandemic, a large proportion of those with disabilities walked or used a bus at least once a week, with use of other public transport modes lower.
- 3.12. For those disabled people who need to use a car to travel into the CCZ during charging hours, either as a driver or passenger, they may find their journeys harder to make due to the increased cost of using their own vehicle or a non-wheelchair accessible PHV. This is mitigated by the existing discount, exemption or reimbursement arrangements including the Blue Badge Discount or Cleaner Vehicle Discount. Some disabled people will continue to be able to make use of the Taxicard scheme which reduces the costs of using a taxi or PHV and gives people an alternative to using their own vehicle. Taxis and wheelchair accessible PHVs do not pay the Congestion Charge. Disabled people travelling to NHS appointments who are classed as highly or moderately vulnerable to Covid-19 will qualify for the extended NHS patient reimbursement scheme if the proposed change to those rules is confirmed.



- 3.13. Disabled people are more at risk of being injured in road collisions and, as such, will benefit more from the expected positive impacts on road safety.
- 3.14. Disabled people are particularly likely to fear being the victim of crime when using public transport and, as such, may be negatively impacted if they use these modes instead of driving.

#### Sex

- 3.15. Prior to the pandemic, within the Zone, men made up a much larger proportion of car trips to destinations within the zone both within current charging hours and the new proposed charging hours and days. During the pandemic, overall trips will continue to be suppressed as people stay at home more. Men are at a higher risk of dying from Covid-19 and, as such, have a greater need to social distance. This may increase their desire to travel by car and as men make a greater proportion of trips as car drivers, they are more likely to be impacted by the proposed changes than women.
- 3.16. Household car access rises as income increases, and women, disabled people, Black and Minority Ethnic (BAME) Londoners and older people are more likely to live in low income households than other Londoners; the most common type of transport used by Londoners on lower incomes is walking, followed by bus. They are therefore more likely to benefit from the Streetspace changes that will be enabled by the reduced level of traffic.
- 3.17. However, women are more likely to work part-time than men. As such, they are more likely to be on lower incomes and less able to afford increased costs associated with the proposed changes if they own a car and want to drive into the zone during charging hours or if they must or wish to do so for work. They also may be adversely affected by extended hours and days of operation as they may work outside of typical office hours, which could result in incurring a new cost.
- 3.18. Women are also particularly likely to fear being the victim of crime when using public transport and walking and, as such, may be negatively impacted if they use these modes instead of driving. People walking or cycling in greater numbers may help to mitigate this impact.

#### Race

- 3.19. During the pandemic, overall trips will continue to be suppressed as people stay at home more. BAME people are more at risk of dying from the virus so may have a greater need to stay at home where possible and greater desire to use their car to social distance more easily.
- 3.20. There is no reason to think that BAME persons in general will be particularly affected by the changes. However, it is possible to identify affected sub-groups that are predominantly BAME persons. BAME drivers make up a high proportion of PHV drivers (c.94 per cent). It can be expected that there would be an impact on this group from any increases in their professional costs if they need to drive into the CCZ during charging hours. This will particularly be an issue for those with a low income (36 per cent of PHV drivers have a household income of less than £20k). It is up to the PHV operators and drivers to decide how to pass on or absorb the charge and it is possible otherwise to mitigate the impact (e.g. by allowing drivers to avoid the zone). Nonetheless, an extension to the operating hours and days may result in already established processes of passing on the cost changing and could result in a higher cost to PHV drivers or loss of income if charges are passed onto

customers and journey demand reduces as a result. However, to counteract this, the demand for PHVs may well increase if car owners become more reluctant to use their own vehicles as a result of the proposed changes. In addition, the impact of these changes is mitigated by their temporary nature and likely lower demand from customers to enter the zone during the pandemic at peak PHV journey times (particularly Thursday, Friday and Saturday evenings) as many of the trip attractors (e.g. bars, restaurants) will be closed in the short term.

- 3.21. There is increased exposure to air pollution in areas that have a higher percentage of non-white ethnic groups, with a particularly skewed distribution for the Black/African/Caribbean/Black British population. A greater proportion of mixed, black and other ethnic groups are exposed to levels of pollution that exceed the NO<sub>2</sub> limit value than their proportion of the total population. As such, they will most benefit from the air quality benefits of the reduced traffic in the zone.
- 3.22. BAME people are more at risk of being injured in road collisions and, as such, will benefit more from the expected positive impacts on road safety.
- 3.23. BAME people are particularly likely to fear being the victim of crime when using public transport and, as such, may be negatively impacted if they use these modes instead of driving.

#### Pregnancy and maternity

- 3.24. There is no clear evidence that pregnant women are more likely to get seriously ill from Covid-19 but they have been included in the moderate risk (clinically vulnerable) group by the Government as a precaution. As such, they may be reluctant to use public transport and less able to walk or cycle depending on the level of physical impairment they are experiencing during pregnancy. This is mitigated to some degree by the proposed change to the NHS patient reimbursement scheme which will mean pregnant women are eligible for reimbursement for hospital appointments in the CCZ so long as they are considered by the NHS to be in an at risk category.

#### Religion or belief

- 3.25. During lockdown, all religious services held at religious worship centres have been suspended. Places of worship are expected to reopen no earlier than 4 July. Even after services have resumed there will be a suppression in trips as venues will have to limit attendees to ensure social distancing and some people will continue to stay at home more. This will mitigate to some degree the impact of the Proposed Changes.
- 3.26. Individuals who access religious services within the CCZ by public transport, walking and cycling will benefit from the Proposed Changes especially when congregating at the entrance to the worship centre.
- 3.27. Those who access religious services within the CCZ by car during the proposed extended charging hours may find it more difficult to do so due to increased costs. For many this will be a new cost because religious services often take place during the evenings or at weekends. This could be mitigated to a certain extent by making use of an existing discount or exemption.
- 3.28. TfL data from July to December 2019, showed that people making journeys once or twice a week into the CCZ accounted for three per cent of unique vehicle entries to the CCZ suggesting that this will be a relatively minor overall impact.

### Gender reassignment

- 3.29. Based on the desk review undertaken as part of the IIA, there is no particular impact to this group in relation to Section 149 of the Equality Act that has been identified.

### Sexual orientation

- 3.30. Based on the desk review undertaken as part of the IIA, there is no particular impact to this group in relation to Section 149 of the Equality Act that has been identified.

### Other impacts

- 3.31. The IIA also identified other likely significant impacts relevant to protected characteristics.

### Deprivation

- 3.32. Those on low incomes are more likely to work in jobs that cannot be done from home so will have more need to travel. For individuals who want or need to walk or cycle or who are reliant on buses, the proposed changes to the CC Scheme will benefit them as there will be more space for walking or cycling and potential bus journey time improvements.
- 3.33. Household car access is lower for low income households. Those in low income households particularly suffer the disbenefits of high car use: severance, slower bus journeys, poor air quality, poor health from inactivity. They therefore also stand to benefit from lower levels of car use.
- 3.34. Women, disabled people, BAME Londoners and older people are more likely to live in low income households than other Londoners; the most common type of transport used by Londoners on lower incomes is walking, followed by bus.
- 3.35. Those who are dependent on a car or PHV to make journeys may find it more difficult and expensive to travel in the zone. This may make it hard for them to access work opportunities, particularly in the evenings and at weekends when there would previously have been no charge. Some low-income residents will be able to make use of existing scheme discounts, exemptions and reimbursements particularly the residents' discount (for existing holders only), Blue Badge discount and reimbursement scheme for NHS staff and care home workers.
- 3.36. Londoners living in the most deprived areas are exposed to concentrations of NO<sub>2</sub> which are 25 per cent higher than those living in the least deprived areas. As such, they will benefit most from the air quality benefits of reduced traffic in the zone.
- 3.37. Individuals living in areas of high deprivation are more at risk of being injured in road collisions and, as such, will benefit more from the expected positive impacts on road safety.

## **4. Other considerations**

### Engagement and representations

- 4.1. Proposed permanent changes to road user charging schemes including the CC Scheme are normally subject to stakeholder and public consultation although there is no express statutory requirement for the Mayor or TfL to consult. Amendments to road user charging

schemes are made in accordance with Mayoral Guidance that was issued by the (former) Mayor in February 2007 pursuant to paragraph 34 of Schedule 23 to the GLA Act and which remains in place today.<sup>8</sup> TfL is required by paragraph 34 to have regard to the Guidance when exercising its road user charging functions.

- 4.2. The Mayoral Guidance contemplates several different scenarios in which a road user charging scheme might be amended and sets out the Mayor's expectations as to whether, amongst other things, TfL should consult on proposed changes, the length of any consultation period and publicity requirements. The Guidance recognises that in certain circumstances, exceptional variations to an existing scheme may be required. It provides that these exceptional changes may be made without consultation when they are necessary for operational reasons including where any consultation would cause a delay which would have a detrimental effect on or delay benefits to groups or individuals.
- 4.3. The pandemic has had a significant and dramatic impact on everyday activity and travel in London and has created the requirement for emergency measures to be introduced in all sectors of public life. TfL, as the statutory authority responsible for transport in London, is now having to consider urgently how it delivers the next stage of its continuing response to the pandemic. As has been explained in part 1 above, the pandemic and the Government's response to it has created an immediate and continuing travel demand challenge for TfL to ensure that Londoners can move around as safely as possible. Given the extraordinary circumstances created by the pandemic,<sup>9</sup> the purposes for which the Proposed Changes are being made and TfL's traffic modelling predicting that the current CC Scheme rules will not suppress a car based recovery in the CCZ, TfL considers that it is appropriate to treat the Proposed Changes as an exceptional variation for the purposes of the Mayor's Guidance and not undertake a full, formal and lengthy consultation as it would usually do for permanent changes.
- 4.4. Under the funding arrangement with the DfT, at the Government's request in addition to reinstating its road user charging schemes, TfL is to urgently bring forward proposals to widen the scope and level of road user charging schemes in accordance with its legal powers and decision-making process. A full consultation on the Proposed Changes runs contrary to this urgent need; a delay to the implementation of the changes would compromise both the effectiveness of the CC Scheme as a lever to stem a car based recovery as well as the deliverability of the Streetspace Plan and of TfL's aims for a safe restart of the transport network. In the words of the Mayoral Guidance, a full consultation would have a detrimental effect on and delay the benefits to groups or individuals, namely, pedestrians, cyclists and drivers and passengers of motor vehicles who must travel by road for essential purposes. In TfL's view, the current scenario and reasons for not undertaking full consultation are in accordance with the exceptional variation section of the Mayoral Guidance.
- 4.5. The exceptional nature of the Proposed Changes is reinforced by their temporary nature. Contrary to changes which are permanent major or minor variations under the Mayoral Guidance, the Proposed Changes are only intended to be temporary and introduced for the purposes of responding to the circumstances created by the pandemic, primarily, social distancing requirements. Their impacts will be carefully monitored and refined as circumstances change or the need arises. If the Mayor and TfL consider the Proposed

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<sup>8</sup> *Guidance from the Mayor of London to Transport For London on Charging Schemes pursuant to Schedule 23 of the Greater London Authority Act 1999*, 16 February 2007

<sup>9</sup> TfL has already recognised "extraordinary circumstances" currently apply to the operation of the CC Scheme by extending the application of the NHS staff reimbursement scheme on 14 May 2020 in accordance with paragraph 8 of Annex 2 to the Scheme Order.

Changes should be made permanent a consultation will be undertaken before any separate decision is made.

- 4.6. A public and stakeholder consultation for a major variation introducing permanent changes to a road user charging scheme would normally last around 10 – 12 weeks. Significant additional work beyond just the consultation period itself must be factored in, including usually around six weeks of preparatory work (including the preparation of consultation materials and questionnaire, impact analysis and engagement events with stakeholders) prior to the consultation starting and around six weeks of analysis of responses and the preparation of a report and decision document following the consultation closing. Therefore, assuming a 10 to 12 week consultation, a minimum 20 to 24 weeks process, but usually longer, is required. Given the exceptional and urgent circumstances which necessitate the Proposed Changes as set out above and their temporary nature, it was not considered practicable to conduct a full, formal and lengthy public and stakeholder consultation.
- 4.7. Although there is no express statutory requirement to consult and the Mayoral Guidance contemplates that consultation can be dispensed with in exceptional circumstances, the Mayor and TfL, nonetheless, sought to engage with stakeholders and the public to gauge their views on the Proposed Changes. The changes have received widespread media coverage and TfL invited people to share their views on the proposals by email to [yoursay@tfl.gov.uk](mailto:yoursay@tfl.gov.uk) by 4 June. This invitation was published on TfL's website and in the Metro travel page on 29 May. More than 13,000 emails were received. TfL has identified the main themes raised in the public responses as well as those received by stakeholders. Much like a usual consultation exercise, the Proposed Changes have been refined as a consequence of the views expressed (see 'New Mitigations' in paragraph 4.41 – 4.42 below).
- 4.8. Examples of stakeholders who have responded include:
- freight and PHV representatives (e.g. FTA, RHA, London Private Hire Car Association, Brewery Logistics Group);
  - business representatives (e.g. Federation of Small Businesses, Smithfield Market Traders' Association);
  - charities (e.g. Samaritans, Age UK, London Food Alliance, Food for Homeless Londoners, St Mungos, The Passage, RNLI, Salvation Army);
  - environmental interest groups (e.g. Mums for Lungs, Living Streets, Hackney Living Streets, Friends of the Earth, Client Earth);
  - religious organisations (e.g. Westminster Chapel, St George the Martyr Church, Bevis Marks Synagogue);
  - healthcare representatives (e.g. NHS Trusts);
  - London boroughs (e.g. City of London, Westminster City Council);
  - London Assembly members (e.g. Leonie Cooper, Caroline Pidgeon); and
  - emergency services.
- 4.9. Emails received from the public and stakeholders contained a broad range of responses, both in support of and objecting to the proposals. The key themes raised in emails received from the public and stakeholders, both via [YourSay@tfl.gov.uk](mailto:YourSay@tfl.gov.uk) and further representations to the GLA can be summarised as:

- **Cost increase:** Concerns about affordability, that it is a tax / for revenue raising, unfair on motorists, wrong time to increase charge, right time to increase charge, charge should be higher;
- **Hours:** Impact on shift workers, impact on night time economy, impact on residents with people less able to visit, suggestions for alternative hours extensions, general support, impact on air quality and health, should be 24 hours a day;
- **Weekends:** Not seen as justified, especially Sunday, concerns about access to religious services and places of worship, impact on weekend economy, impact on residents and people less able to visit, suggestions for alternative charging hours on weekends, suggestion for alternative charge level on weekends, support for wider charging;
- **Residents:** Removal of discount will have a small impact on congestion, impact of visitors being deterred, not enough notice given for residents who have previously only driven outside charging hours and have not previously registered for residents' discount, allow two vehicles per resident, reduces attracting of living in central London;
- **Volunteers:** Impact on charities working in zone (particularly in context of pandemic response), impact on foodbanks delivering in zone and families supporting relatives;
- **Key workers:** Extend reimbursement scheme to include more key workers, domiciliary care workers, workers providing emergency response to pandemic, increased risk for key workers, exempt commuting journeys for emergency services;
- **Freight and economy:** Impact of cost, request exemption for freight, impact on economy (general, night time and weekend), impact on small business, impact on costs e.g. construction, delivery, servicing;
- **Equalities:** impact on low income households, BAME, children, older, younger, disabled, ability to worship, impact on school travel, particularly in light of change to Under 18 free travel on public transport, concern about older and BAME communities Covid-19 vulnerability;
- **Safety:** Concerns about safety on street and public transport at night time, welcome cycle safety benefits, concerns about cycle safety, feel safer with less traffic;
- **Health:** Increasing risk by forcing people to use PT, mental health impact from people not being able to travel / visit friends and family, welcome air quality impacts, welcome safety impacts, increase exemptions for those who need to travel to hospital while shielding / at risk;
- **Environment:** will not achieve environmental benefits, welcome environmental benefits, support action against climate change, need to tackle pollution, should target most polluting vehicles; and
- **Other:** Need to consider impact of re-routing, required proper consultation and impact assessment, not justified, justified even after lockdown restrictions eased, charge more for larger vehicles, should apply to all vehicles, benefits of lower traffic during lockdown, support for making changes permanent and rolling out more widely, changes should go further, changes need to be more widely communicated, be clear about when changes will be reviewed.

4.10. The themes have been considered in the context of the IIA as described in Part 3 above and in the following sections.

### *Impact assessments (other than equalities)*

4.11. The following expected impacts (other than equalities) are informed by the IIA undertaken by TfL.

4.12. The IIA was split into three categories; London's environment, London's people and London's economy. Within these categories, the assessment was divided into a number of topics. The discussion of impacts below is structured by category, and topics within.

#### *London's environment*

4.13. The impact of the proposed increase in the charge and change to the hours and days of operation on traffic within the CCZ was assessed as part of the IIA. The proposed increase in the charge and the change to the hours and days of operation will both have an impact on traffic but this will be greatest for the proposed changes to the hours and days of operation. The impact on cars and PHVs is expected to be greater than the impact on HGVs and LGVs. The impact on PHV traffic in the CCZ depends on how operators respond to the charge. The impact of the proposals on traffic volumes was estimated using in-house tools and the forecasts of lockdown recovery generated using the recent historical trend and TfL's forecasting judgement.

Key proposed changes expected to impact on traffic flows	Expected percentage change in vehicle kilometres during the stated hours			
	Cars	LGV	HGV	PHV
Increase charge to £15 07:00 to 18:00 weekdays (current operation)	-3%	-1%	-1%	0%
Increase charge to £15 Operate scheme additional days and hours (18:00 to 20:00 weekdays and 07:00 to 22:00 weekends)	-16%	-3%	-4%	-13%

Table 1: Expected percentage change in vehicle kilometres by vehicle type

4.14. Emissions within the CCZ from vehicles affected by the proposals are expected to reduce in line with anticipated reductions in vehicle kilometres. The combined reductions are expected to reduce emissions in the CCZ by four to five per cent. Within newly charged hours (in the weekdays evenings and at weekends) we see a 10 to 12 per cent reduction in emissions as a result of the proposals. The reductions are expected to be higher during weekends as greater reductions in vehicle kilometres (and therefore emissions) are expected as these days have previously not been charged. Smaller reductions are estimated during existing charging hours as a result of the increased charge level because the charge already exists during these times (three to four per cent reduction in emissions during weekdays).

4.15. Depending on the mode split of vehicles in the CCZ, cars and PHVs are estimated to contribute around 80 to 90 per cent of the total emissions saved by the proposals for all pollutants. If the COVID-19 recovery were to result in a large increase in car traffic as people switch to car usage, the emissions savings from the new proposals would be even greater.

4.16. The following paragraphs record the expected emissions reductions by pollutant.

#### Nitrogen Dioxide<sup>10</sup>:

- NO<sub>x</sub> emissions from road transport vehicles affected by the proposals will be reduced. On average, the reduction resulting from these proposals is estimated to be about four to five per cent if measured annually. With an increased charge, for the weekday charging hours, the reduction is approximately three per cent, with savings during weekend charging hours estimated to be about 10 to 11 per cent.

#### Particulates:

- Particulate emissions (both PM<sub>10</sub> and PM<sub>2.5</sub>) from road transport vehicles affected by the proposals will be reduced, on average by between four and five per cent annually. This reduction estimate includes both exhaust emissions and non-exhaust emissions such as brake and tyre wear.

#### Carbon dioxide:

- CO<sub>2</sub> emissions from road transport vehicles affected by the proposals will be reduced. On average, reduction is estimated to be about five to six per cent annually. Considering weekday charging hours, the reduction is approximately four per cent, and about 12 per cent for weekend charging hours.

#### Noise:

- The impact of traffic noise continues to have a particular impact across socio-economic groups. Busy roads are worst affected and would have seen the least reduction in traffic noise as they continued to be used by emergency vehicles, buses, HGVs and general traffic throughout lockdown.

#### *London's people: health*

- 4.17. A reduction in traffic in the CCZ as a result of the proposals could lead to a number of positive impacts on health. Firstly, it could lead to reduced emissions that will help to improve the health of all Londoners as exposure to air pollution contributes to a number of conditions. Reduced emissions may also reduce the risk and severity of health conditions that can make a person more vulnerable to complications if they contract Covid-19 and increase the risk of death.
- 4.18. An increase in active travel will help to meet recommended levels of physical activity, in turn this will help to prevent over 20 chronic conditions and diseases. By preventing these underlying conditions, vulnerability to Covid-19 infection can be reduced.
- 4.19. Reduced traffic will also lead to reduced noise which reduces the risk of cardiovascular and physiological effects, stress, mental health and hearing impairment. It will also lead to reduced road danger and severance, particularly for vulnerable groups.
- 4.20. For drivers, increased costs as a result of the proposals, where they cannot access a discount, exemption or reimbursement scheme may have a negative impact on their health and well-being by causing additional stress. This is minimised by the low frequency by which most vehicles access the CCZ. TfL's records over the six months from July to December 2019 (monitored continuously) show that 94 per cent of people making journeys into the CCZ did so less than three times a week with over 50 per cent entering only once in the entire period and around 28 per cent entering less than once a month.

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<sup>10</sup> All combustion processes produce oxides of nitrogen, for which NO<sub>x</sub> is the collective term. Oxides of nitrogen comprise nitric oxide (NO) and NO<sub>2</sub>, the former readily converted to the latter by oxidation. NO<sub>2</sub> is a pollutant of concern due to its impact on health. Since NO easily converts to NO<sub>2</sub>, it is necessary to reduce emissions of NO<sub>x</sub> in the management of NO<sub>2</sub>.



- 4.21. If drivers are deterred from using cars due to changes to the Congestion Charge, there may be an increase in individuals taking up alternative modes of transport. Individuals may feel more stressed if they are unable to drive if they feel that other modes increase their risk of Covid-19 exposure. This risk may be mitigated by providing opportunities to travel while maintaining social distancing and continuing to promote wider Public Health England advice.

*London's people: accessibility*

- 4.22. Reduced traffic will provide more safe space for walking and cycling and enable social distancing whilst waiting on-street to use public transport. It is therefore an essential part of protecting vulnerable Londoners while they look to access services or work.
- 4.23. Car trips may be displaced onto public transport making it harder for people to access these modes. Those using the bus will benefit from improved journey times. Many car drivers will be able to switch to an alternative mode. Accessibility for those that can't may be reduced unless they can make use of a discount, exemption or reimbursement scheme.
- 4.24. Accessibility may also be reduced for those that use PHVs and community transport services, and those that carry out voluntary work or work for a charity.

*London's people: safety and crime*

- 4.25. Decreased road traffic may reduce road danger in the zone by reducing the number of conflicts between road users. However, this needs to be balanced against a potential increase in vehicle speeds, which as traffic volumes reduce which will increase the chance of collisions occurring and severity of the injury to those involved. However, as lockdown eases traffic levels, even with the proposed changes to the Congestion Charge, will increase to an extent that excessive speeding will become more difficult. Therefore, overall it is expected the proposed changes will have a road safety benefit.
- 4.26. This is important because people are more at risk when walking, cycling or using a motorcycle in London. As such, with a significant increase in people walking and cycling in the CCZ expected, it is vital to reduce the road danger they face. This will particularly benefit certain groups because there are inequalities in road danger in London. This includes BAME people, older people, children, disabled people and those living in deprived areas.
- 4.27. The proposals will increase the number of people walking, cycling and using public transport in the CCZ. This could create opportunities for street and public transport-based crime including robbery, theft and harassment. However, with lower levels of public transport use during the Covid-19 crisis, levels of crime have been very low. The proposals may also cause safety concerns for some who switch to alternative modes. This is particularly likely to be the case for the extension of the hours later into the evening when fear of crime is higher especially for women. For those switching to using public transport, it is disabled people, young people, women and BAME people who are likely to most have concerns about their personal safety. For those switching to walking it is likely to be women and young people. This may be mitigated by larger numbers of people walking and cycling.

*London's economy: employment*

- 4.28. As the lockdown gradually eases, it is expected that people will return to physical places of work in greater numbers, and the CCZ, which includes the City of London, is London's

biggest employment centre. However, it is also the case that in the longer term many people will be experiencing more prolonged changes to employment, such as job losses and reduced hours. It is also likely that many firms will retain homeworking as the approach of choice for some staff, at least some of the time. Therefore, a proportion of people currently travelling in the CCZ for work will not be travelling there at all, or to the same extent, during the recovery period.

- 4.29. Travel patterns related to the work commute and business trips vary by sector, regardless of the pandemic impacts. With regard to the CCZ as a place of work, the changes could adversely impact trades where a vehicle is used to carry goods, or equipment necessary for work, and it is, therefore, difficult to switch modes. People who travel by private vehicle mainly in normal business hours will already be accustomed to paying the Congestion Charge and will experience an increase to its cost; weekend and night-time work will have a new cost from the extended hours. The specific impact on some NHS and care home workers will be mitigated by the extended reimbursement schemes available for these groups.
- 4.30. The majority of commuting trips to central London are not made by car. The majority of trips would previously have been made by public transport but this will need to change due to the severely constrained capacity on public transport. Where individuals do need to use their car to access the CCZ they may be adversely impacted by the proposals. The effect of this could be exacerbated by the adverse employment conditions of the pandemic. This impact may be mitigated for some by the NHS and care home worker reimbursements rearrangements.
- 4.31. Private hire vehicle services may be adversely impacted by the increased costs as a result of the proposals however this may be mitigated to some degree as the amount of work in the CCZ is likely to be significantly reduced based on the closure of businesses, workplaces and services. It is also the case that the exemption for wheelchair-accessible PHVs is unaffected and drivers of non wheelchair-accessible PHVs may be able to mitigate the impact by passing on costs to customers or avoiding the CCZ.

#### *London's economy: businesses*

- 4.32. London's businesses are now starting to reopen, but their ability to operate will depend on ensuring customers, staff and suppliers can access their businesses using a transport network which has to operate in a very different way to maintain social distancing. Businesses and employees need reassurance that there are safe options for travel to and around central London for those who need to return to work physically. As well as space for social-distanced walking and safe cycling, this means a safe and effective bus option for those who really need it.
- 4.33. The proposals are expected to have positive impacts on businesses for a number of reasons. Firstly they will mitigate the effect of increased costs to businesses from higher traffic levels arising from an increased demand for car trips and additional changes. They will enable many more of London's residents and its labour force to access its businesses through active travel, which is key to economic recovery. The proposals will also improve journey time reliability<sup>11</sup> for essential freight and servicing traffic and will support the efficient operation of the bus network, which provides an alternative for longer distance trips that cannot be made by active travel.

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<sup>11</sup> Journey time reliability is the variability of journey times above (or below) a nominal average

- 4.34. The proposals could have a negative impact on the cost to undertake commercial trips into the CCZ, particularly as this type of trip is often more difficult to undertake by alternative modes due to load size. Additional cost will be lower for those who enter the zone less frequently. TfL's records show that (recorded continuously) in the six months from July to December 2019, only 0.5 per cent of unique entries into the CCZ came between 5 – 7 times per week. Just over half of unique entries over the entire six month period came in to the CCZ only once. However, for those who do need to enter, there are a number of commercial operators who take advantage of the Cleaner Vehicle Discount so would not be required to pay the Congestion Charge. Commercial operators would also benefit from improvements to journey time and journey time reliability as non-essential traffic is discouraged from using the roads in central London as a result of the proposals. This could lead to reduced operating costs for businesses.
- 4.35. Small and medium sized businesses could be adversely impacted as they are less able to absorb the increased costs because of the proposals.
- 4.36. Freight companies may also be adversely impacted by increased costs. This will depend on how well the increases can be absorbed by the individual businesses, which will depend upon a variety of factors such as whether they are affected by increased hours. Freight operators would however benefit from improved journey times and journey time reliability, which could lead to reduced operating costs.

*London's economy: wider economy*

- 4.37. There is a significant economic cost to individuals, businesses and the London and UK economy from congestion. Estimates of this cost vary, but TfL estimated the cost of traffic delay in London to be £5.5bn in 2014/15<sup>12</sup>. At an individual level, London drivers lose an average of 227 hours per year to congestion<sup>13</sup>.
- 4.38. Covid-19 and the associated lockdown have had exceptionally adverse effects on the economy in London, the UK and internationally. Whilst many of London's businesses have continued to operate by moving to home working wherever possible, businesses in some sectors, such as retail and hospitality, have been temporarily closed.
- 4.39. The impact of the proposals on London's economy will vary by sector. Research suggests that the pandemic's impacts would be highest for the education, accommodation and food services, and the construction sectors. The proposals could have a negative impact on these sectors by increasing their costs however there will be some benefit for essential traffic as the number of vehicles on the roads could decrease as a result of the proposals.

*New mitigations*

- 4.40. Having considered the issues raised by stakeholders and the public as well as the impacts identified in the IIA, it is proposed that a number of further mitigations should be considered including:
- 4.41. **Expanding the NHS patient reimbursement scheme to include those defined by the NHS to be at high or moderately high risk of Covid-19** to ensure there is no barrier to them attending hospital appointments in the zone. This change would mean

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<sup>12</sup> Cited in London Stalling, GLA, 2017 [https://www.london.gov.uk/sites/default/files/london\\_stalling\\_-\\_reducing\\_traffic\\_congestion\\_in\\_london.pdf](https://www.london.gov.uk/sites/default/files/london_stalling_-_reducing_traffic_congestion_in_london.pdf)

<sup>13</sup> Inrix, 2018 <https://inrix.com/press-releases/scorecard-2018-uk/>

many more people would be eligible for reimbursements and can be made by changing the existing scheme to enable its implementation on 22 June.

- 4.42. **New reimbursement arrangements for local authorities and charities** where they are providing (or others are providing on their behalf) **activities in response to the pandemic** which could include, for example, domiciliary care workers working with, or volunteers providing food or medication delivery services for vulnerable residents.
- 4.43. It is proposed that TfL will engage with partners to develop appropriate criteria and operational arrangements for the new proposed reimbursements schemes, with the aspiration to implement as soon as possible, and with reimbursements to be provided for all eligible trips taken from 22 June.
- 4.44. **Changing the date from which the residents' discount will be closed to new applicants to take effect on 1 August.** This means that applications received on or before 31 July will be processed enabling residents, some of whom may have been resident and car owning in the zone for some years but previously only drove outside charging hours the opportunity to register their vehicle before extended hours of operation are implemented. This is in recognition of the fact that they are unable to avoid driving in the zone.

*Key risks and issues*

- 4.45. Given the exceptional circumstances created by the Covid-19 pandemic and the urgency and temporary nature of the proposed measures, it is not considered appropriate nor practicable to undertake a full, formal and lengthy consultation as would usually be undertaken for permanent changes. However, GLA officers consider that given the circumstances, 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:
- a) The Exceptional Variation Order was made in accordance with the guidance issued by the Mayor;
  - b) TfL undertook an IIA which considered the impacts of the proposals and in particular their impact on certain groups. The IIA is provided to the Mayor for the purposes of informing his decision whether to implement the proposals. As a result of the IIA, new mitigations have been identified;
  - c) Although a full, formal and lengthy consultation has not been undertaken, TfL invited members of the public and stakeholders to provide their views. The themes raised in these responses have been summarised within this document and the IIA to assist the Mayor in deciding whether to implement the proposals. They have also informed the development of new mitigating measures; and
  - d) Legal advice has been provided throughout the process.
- 4.46. The likelihood that the decision by the Mayor to confirm the proposals will be challenged in court by way of judicial review is considered to be high. A pre-action letter has already been received in respect of the proposed changes. This letter raises one ground of challenge on the failure to consult on the extended hours of operation and closing of the residents' discount. The rationale for not undertaking a full, formal and lengthy consultation has been explained above. The Mayor is asked to take into account the themes raised by the public and stakeholders as described in this form and the IIA when making his decision.

- 4.47. There has also been petitions launched against the Proposed Changes. Representations have been considered in the IIA.
- 4.48. No officer involved in the drafting or clearing of this Mayoral Decision has any interests to declare.

*Links to Mayoral Strategies and priorities*

*Mayor's transport duty and Transport Strategy*

- 4.49. The Mayor has a "[g]eneral transport duty" to "develop and implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within Greater London." (section 141 of the GLAA). Transport facilities and services include "those required to meet the needs of persons living or working in, or visiting, Greater London". The Mayor must publish a "transport strategy", which includes the Mayor's policies and proposals for discharging the general transport duty.
- 4.50. The Proposed Changes are considered to be in conformity with the Mayor's Transport Strategy (MTS) and are also considered desirable or expedient for facilitating (directly or indirectly) the achievement of its policies and proposals in the current unusual circumstances of the pandemic. The MTS was published in March 2018 and contains the following proposal in relation to the Congestion Charge:

*Proposal 20: The Mayor, through TfL, will keep existing and planned road user charging schemes, including the Congestion Charge, Low Emission Zone, Ultra Low Emission Zone and the Silvertown Tunnel schemes, under review to ensure they prove effective in furthering or delivering the policies and proposals of this strategy.*

- 4.51. The proposal derives from policy 5:

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

- 4.52. The MTS also contains the following proposals that are relevant to the Streetspace for London plan, which enables adequate space for social distancing to take place around public transport stations:

*Proposal 50: The Mayor, through TfL and the boroughs, will make improvements measured and prioritised against the Healthy Streets Indicators to transform the design and layout of street space and transport facilities around bus, rail, Underground, London Overground, DLR and other stations, and around piers, as far as practicable, to create safe, secure, accessible, inclusive, welcoming, well-designed gateways and routes to and from public transport including provision of:*

- 4.52.1. *Sufficient space and desire-line connectivity for current and future volumes of people arriving and leaving on foot*
- 4.52.2. *High-quality provision for cycling, consistent with London Cycling Design Standards, including secure and well-located cycle parking*

- 4.53. The proposal derives from policy 10:

*The Mayor, through TfL and the boroughs, and working with stakeholders, will use the Healthy Streets Approach to deliver coordinated improvements to public transport and streets to provide an attractive whole journey experience that will facilitate mode shift away from the car.*

#### *London Environment Strategy*

- 4.54. In May 2018 the Mayor published a new London Environment Strategy (LES), following a public consultation. The LES complements the MTS and sets out his aspiration to achieve a zero carbon Capital, including the need to implement a Healthy Streets approach and move to more sustainable transport including ultra low and zero emission vehicles. The Strategy recognises the relationship between vehicles, congestion and air pollution and the need to set out a number of objectives and policies, in line with the Mayor's duties. The Mayor must have regard to provisions of the LES as relevant to the discharge of his functions, including whether or not to confirm the Proposed Changes, with or without modification. Relevant policies include:

*Policy 4.2.4 The Mayor will work with the government, the London boroughs and other partners to accelerate the achievement of legal limits in Greater London and improve air quality*

*Policy 4.2.1 Reduce emissions from London's road transport network by phasing out fossil fuelled vehicles, prioritising action on diesel, and enabling Londoners to switch to more sustainable forms of transport*

#### *The London Health Inequalities Strategy*

- 4.55. In September 2018, the Mayor published his Health Inequalities Strategy, setting out his vision for London to be a healthier, fairer city with all Londoners having the best opportunities to live a long life in good health. The document sets out the Mayor's summary of commitments and outlines the areas the Mayor has committed to working on with partners. One of these has direct relevance to the Proposed Changes:

*Through TfL, implement the Healthy Streets Approach to help make walking, cycling and public transport the most attractive daily transport options in London*

## **5. Financial comments**

- 5.1. There are no direct financial consequences for the GLA arising from this decision.
- 5.2. There would be operational costs to TfL of implementing the proposals. The net revenue TfL forecasts it will receive as a consequence of implementing the Proposed Changes, if they were to be in place for the rest of the financial year, would be £64m. As stated above, the changes are temporary and subject to review so any forecast of revenue is inherently uncertain. This puts the expected net budgeted revenue for the Congestion Charge at £154 million for this year taking baseline volume reductions and factoring in the impacts of the proposed changes to the CC Scheme. Pre-pandemic, the equivalent net expected budgeted revenue was £165 million.
- 5.3. These figures are provided for information only. They serve as context to the forecast operation of the CC Scheme rather than being a relevant consideration which the Mayor should take into account when deciding whether or not to confirm the Proposed Changes.

Road user charging revenue must be applied for 'relevant transport purposes', that is, to facilitate directly or indirectly the implementation of the MTS.

## **6. Legal comments**

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

### *The Exceptional Variation Order*

6.2. The power to make changes to a road user charging scheme is exercisable in the same manner and subject to the same limitations and conditions as apply when a scheme is first established (paragraph 38 of Schedule 23 to the GLA Act 1999). Paragraph 4(3) of Schedule 23 provides that the Mayor acting on behalf of the Greater London Authority may do the following:

- consult, or require TfL to consult, other persons;
- require TfL to publish its proposals for the scheme and to consider objections to the proposals;
- hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme;
- appoint the person or persons by whom any such inquiry is to be held;
- make modifications to any such order, whether in consequence of any objections or otherwise, before such order takes effect;
- require TfL to publish notice of the order and of its effect; and
- require TfL to place and maintain, or cause to be placed and maintained, such traffic signs in connection with that order as the Mayor may require.

6.3. A variation order is the legal instrument through which proposed changes to an existing road user charging scheme are made. By virtue of paragraphs 4(1) and 38 of Schedule 23, a charging scheme and changes to it must be included in an order. The order will only have legal effect if it is confirmed by the Mayor with or without modifications. On 9 June 2020, TfL made the Central London Congestion Charging Scheme (Exceptional Variation) Order 2020 (Appendix 1) ("the Exceptional Variation Order") to the Central London Congestion Charging Scheme Order 2004 ("the Scheme Order") in respect of the Proposed Changes as modified with the mitigations described in paragraphs 4.41 (patient reimbursement) and 4.44 (extension of the date for closure of the residents' discount).

6.4. The proposals that the Exceptional Variation Order seeks to implement must be in conformity with the policies and proposals of the Mayor's Transport Strategy and be considered desirable or expedient for facilitating (directly or indirectly) their achievement.

6.5. The rationale and evidential basis for the Proposed Changes that the Exceptional Variation Order, if confirmed, will give effect to is set out under headings one and two above.

6.6. The extended NHS and care home reimbursement arrangements have been in place since the CC Scheme was reinstated on 18 May 2020. Since then, TfL has used its discretion to reimburse charges paid in respect of eligible journeys made by NHS and care home workers. The changes to the Scheme Order which are being proposed in respect of these two reimbursement arrangements are intended to facilitate the extended application of the NHS reimbursement arrangement and to regularise the new reimbursement arrangements and provide them with a formal basis.

- 6.7. It has not been possible within the timescales permitted to finalise the precise rules which will govern new reimbursement arrangements which will apply to local authorities and charities whose workers are making journeys into the CCZ for purposes directly relevant to the pandemic response. Further engagement with stakeholders is needed before the final version of these rules can be settled on. To provide legal certainty that the reimbursement arrangement will be introduced, the Mayor is asked to direct TfL to exercise its road user charging functions to provide for the establishment of these additional reimbursement arrangements. TfL will prepare a separate variation order which creates the local authority and charity reimbursement arrangements and submit it to the Mayor for confirmation in due course. The arrangements will have retrospective effect, that is, reimbursements may be backdated to 22 June when the other Proposed Changes are proposed to come into effect. The requirements in s 155 of the GLA Act that the Mayor issues directions to TfL in writing and notifies TfL is satisfied by this Form and the attached letter to TfL's Commissioner which sets out the terms of the direction (appendix 4).
- 6.8. As a consequence of closing the residents' discount to new applicants from 1 August 2020, the Greater London Low Emission Zone Charging Order 2006 which governs the LEZ and ULEZ also requires amendment<sup>14</sup>. This is to reflect the new rule that the ULEZ grace period for residents only applies to residents who were registered for the Congestion Charging residents' discount as at midnight 31 July 2020 (or who had submitted an application on or prior to then which was then successfully determined). This change will be dealt with in a separate variation order to that Scheme which will also address proposals to postpone the changes to the implementation of improved LEZ standards and charges (otherwise 26 October 2020) as a result of the pandemic and other consequential changes.

#### *Consultation*

- 6.9. As stated above, the Proposed Changes were not subject to a full, formal and lengthy public consultation. While it is recognised that TfL usually consults on changes to the CC Scheme, paragraph 4(3) of Schedule 23 to the GLA Act does not create a duty on either the Mayor or TfL to do so.<sup>15</sup> Further, TfL is required to exercise its road user charging functions having regard to the Mayoral Guidance issued under paragraph 34 of Schedule 23 to the GLA Act. That Guidance expressly contemplates in Part 6 that exceptional variations may need to be made to a road user charging scheme in circumstances which do not permit consultation to be undertaken. This is the case even when what is proposed would otherwise amount to a major variation of a scheme. TfL has relied on this Guidance to proceed with the Proposed Changes in the absence of a full, formal and lengthy consultation for the reasons set out in paragraphs 4.1- 4.6 above. Part 6 of the Guidance requires that certain publicity requirements must still be met and these will be complied with should the Mayor decide to confirm the Exceptional Variation Order.
- 6.10. That said, TfL has used reasonable endeavours in the circumstances to gauge the views of the public and stakeholders on the changes. Such views have been readily forthcoming. The decision that the Mayor is being asked to make is informed by the views expressed by the public and stakeholders as identified in this Form and the IIA. The Mayor is asked to take them into account when making his decision.
- 6.11. The decision that the Mayor is being asked to make, as reflected in the Instrument of Confirmation, has the effect that the Proposed Changes will be introduced on a temporary

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<sup>14</sup> The Greater London Low Emission Zone Charging Order 2006 (as amended) which includes the London Emissions Zones Charging Scheme.

<sup>15</sup> This can be contrasted with s 170 Transport Act 2000 for charging schemes outside of London.



basis only and will be subject to review. Should TfL consider at a future date that the changes should be made permanent, a public and stakeholder consultation on this proposal will be undertaken. The Mayor's decision to confirm the Exceptional Variation Order cannot be relied on to implement the Proposed Changes (as modified) permanently. This is an important qualification to the operation of the Exceptional Variation Order and is reflected in the terms on which the Mayor is being asked to confirm the changes. TfL must keep the amendments to the Scheme Order which are made by the Exceptional Variation Order under review having regard to the transport challenges created by the pandemic. As a matter of good administrative practice and bearing in mind the circumstances which the Proposed Changes are responding to, it is expected that TfL's review will take account of important milestones in the response to the pandemic or significant changes in circumstances.

#### *Power to hold a public inquiry*

- 6.12. Paragraph 4(3) of Schedule 23 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 Proposed Changes as set out in the Exceptional Variation Order is a matter for the Mayor to decide.
- 6.13. For the same reasons as set out in 4.1-4.6 above that are relied on to proceed with the Proposed Changes without a full, formal and lengthy public consultation, it is not recommended that a public inquiry should be held.

#### *Considerations under the Human Rights Act 1998*

- 6.14. Under Section 6 of the Human Rights Act 1998 ('HRA'), it is unlawful for a public authority to act in a way which is incompatible with the European Convention on Human Rights. As a public authority, the Mayor is required to consider possible interferences with people's Convention rights before deciding whether to confirm the Exceptional Variation Order.
- 6.15. The Convention rights which might be engaged here are the right to privacy and family life (Article 8) and the right to the peaceful enjoyment and protection against deprivation of possessions (Article 1 of the First Protocol) ("A1P1"), and the protection against discrimination on specified grounds (Article 14). Article 14 may also be engaged if the measure is within the scope or ambit of Article 8 or A1P1, even if there is no interference with those rights. These are qualified human rights, that is, they are subject to limitations which permit the rights to be restricted for certain specified purposes. In assessing whether any established interference with a convention right falls lawfully within a permitted category of restriction, the public body must demonstrate interference is provided for by law, pursues a specified legitimate objective and is proportionate means of pursuing that objective (that is, is necessary in a democratic society), having regard in particular to the public benefit to be derived from the action.
- 6.16. The Mayor is advised to proceed on the basis that the decision is within the ambit or scope of Article 8 and A1P1 and that Article 14 is engaged (because the Proposed Changes fall within the ambit or scope of a Convention right) but, the interference and any differential impact under Article 14 can be shown by the Mayor to be justified. The Mayor's decision is in accordance with the law, pursues objectives including public safety, protection of economic well-being, the protection of health, the protection of the rights and freedom of others (including the right to life) and the general interest and is a necessary and proportionate response in emergency circumstances. In particular, there is no other less burdensome means of achieving the anticipated reduction in traffic in the CCZ (and other benefits identified above and in the IIA).

## **7. Planned delivery and next steps**

- 7.1. If the Exceptional Variation Order is confirmed, notice of the confirmation will be published in the London Gazette and other media in accordance with the Mayoral Guidance. The Proposals would be implemented from 22 June although closure of the residents' discount will only have practical effect from 1 August.
- 7.2. The proposed changes to the CC Scheme are temporary as they are in response to the emergency situation arising from the Covid-19 pandemic. The changes will be kept under review by TfL to ensure their continued effectiveness in light of the changing response to the pandemic.
- 7.3. If the Mayor and TfL consider there is a need for the proposed changes to become permanent outside of the scope of the response to the pandemic then a separate and full consultation will be undertaken before any decision is made.

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

**Appendix 1** – Central London Congestion Charging Scheme (Exceptional Variation) Order 2020

**Appendix 2** – Integrated Impact Assessment

**Appendix 3** – Instrument of Confirmation

**Appendix 4** - Direction

**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 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:**

Claire Hamilton 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 15 June 2020.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**

15 June 2020

**CHIEF OF STAFF:**

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

**Signature**

**Date**

15 June 2020