



Neutral citation number: [2024] UKFTT 1017 (GRC)

Case Reference: EA/2023/0490

**First-tier Tribunal
General Regulatory Chamber
Information Rights
IC-250573-B2Z4**

Heard by: CVP

Heard on: 9 October 2024

Decision given on: 04 December 2024

Before

**TRIBUNAL JUDGE CHRIS HUGHES
TRIBUNAL MEMBER ANNE CHAFER
TRIBUNAL MEMBER AIMEE GASSTON**

Between

ADAM DAVIES

Appellant

and

INFORMATION COMMISSIONER

Respondent

Representation:

For the Appellant: in person

For the First Respondent: did not appear

Decision: The appeal is Dismissed

Cases

R v Secretary of State for Environment Food and Rural Affairs, Secretary of State for Transport, Welsh Ministers, Mayor of London (Interested Party) ex parte ClientEarth [2018] EWHC 315 (Admin)

R v Mayor of London ex parte LB Hillingdon [2023] EWHC 1972 (Admin)

R v Mayor of London ex parte Chris White [2023] EWHC 2356 (Admin)

Information Commissioner v DfT & Hastings [2018] UKUT 184

Department for Business, Energy and Industrial Strategy v The Information Commissioner and Alex Henney [2017] EWCA Civ 844
Vesco v Information Commissioner [2019] UKUT 247
Craven v IC and DECC [2012] UKUT 442

REASONS

Context

1. Air quality in London and its impact on the health of residents has been of concern for many years. Charles Dickens repeatedly mentioned it in his novels. In Chapter 3 of *Little Dorrit* (1855-1875) he described an interior in Cheapside “the Plagues of Egypt, much dimmer for the fly and smoke plagues of London, were framed and glazed upon the walls”. The Great Smog (December 1952) killed of the order of 10,000 people in London and led to the Clean Air Act 1956 which contributed to the reduction in domestic coal burning and a lessening of the impact of sulphur dioxide on human health.
2. Other measures followed including Directive 2008/50/EC on ambient air quality and cleaner air for Europe. The European Commission brought proceedings against the UK in 2018 for failure to implement measures to achieve the required improvements in air quality with levels of nitrogen dioxide significantly higher than permitted, including in London.
3. The environmental charity ClientEarth has repeatedly litigated against the UK government in an attempt to secure compliance. The opening lines of the judgement of Garnham J of 21 February 2018 in the third of these challenges ([2018] EWHC 315 (Admin)) exemplify the problem:

“Introduction

On 26 July 2017 the Department for Environment, Food and Rural Affairs ("DEFRA") published the "UK plan for tackling roadside nitrogen dioxide concentrations" and associated documents (hereafter "the 2017 Plan"). This was the third attempt by the UK Government to provide an Air Quality Plan ("AQP") that met its obligations in law.

*The first AQP, produced in 2011, was quashed by order of the Supreme Court in 2015. The Government was made the subject of a mandatory order requiring the Secretary of State to prepare new air quality plans in accordance with a defined timetable (see *R (on the Application of ClientEarth) v The Secretary of State for the Environment, Food and Rural Affairs* [2015] UKSC 28, 4 All ER 724). The second AQP, produced in purported compliance with the order of the Supreme Court, was published on 17 December 2015.*

In a judgment dated 2 November 2016 ([2016] EWHC 2740 (Admin), ("the November 2016 judgment")), I held that the 2015 plan was also deficient. I made a direction that DEFRA must

publish a new AQP, which complied with the relevant EU Directive and domestic Regulations, by 31 July 2017. It was in purported compliance with that order that DEFRA published the 2017 Plan.

The Claimant in these proceedings is "ClientEarth", a registered charity, whose objects include promoting and encouraging the "enhancement, restoration, conservation and protection of the environment, including the protection of human health, for the public benefit". By these proceedings, the Claimant challenges the 2017 Plan on the ground that it too failed to meet DEFRA's legal obligation. ClientEarth was also the claimant in the two previous judicial review cases. The Defendants are the Secretaries of State for Food, Environment and Rural Affairs, and for Transport, and the Welsh Ministers. The Secretary of State for Food, Environment and Rural Affairs has taken the lead for the Defendants in this case (and I refer to him hereafter as "the Secretary of State").

Proper and timely compliance with the law in this field matters. It matters, first, because the Government is as much subject of the law as any citizen or any other body in the UK. Accordingly, it is obliged to comply with the Directive and the Regulations and with the orders of the court. Second, it matters because, as is common ground between the parties to this litigation, a failure to comply with these legal requirements exposes the citizens of the UK to a real and persistent risk of significant harm. The 2017 Plan says that "poor air quality is the largest environmental risk to public health in the UK. It is known to have more severe effects on vulnerable groups, for example the elderly, children and people already suffering from pre-existing health conditions such as respiratory and cardiovascular conditions". As I pointed out in the November 2016 judgment, DEFRA's own analysis has suggested that exposure to nitrogen dioxide (NO₂) has an effect on mortality "equivalent to 23,500 deaths" every year."

4. On 17 May 2018 the European Commission referred the UK to the Court of Justice for the EU for failure to adhere to air quality standards with respect to NO₂ following a reasoned opinion in February 2017.
5. It may be noted that the Mayor of London was a participant in the 2018 litigation. Plans for an Ultra Low Emissions Zone (ULEZ) which would introduce a charge for vehicles which were likely to exceed certain emissions thresholds were announced by the then Mayor of London in 2015 with the intent that they take effect in 2020. The zone was introduced in 2019 by Sadiq Khan who became mayor in 2016. The zone initially covered Central London, the same area as the existing London congestion charge; in 2021, the zone was extended to cover the area within the North Circular and South Circular roads. A further extension was announced in early 2022 and the Mayor confirmed the statutory order on 22 November 2022.
6. This expansion was controversial and in early 2023 four outer London boroughs and Surrey County Council sought judicial review of the decision. These proceedings challenged the decision arguing that was not permitted by Schedule 23 of the Greater London Authority Act (the statutory basis for the charging scheme), arguing that the public consultation did not provide sufficient information on the number of non-compliant vehicles in the expanded zone and the compensation scheme for scrapped vehicles was defective. Another challenge was launched by *White* on 23 February

(just within the three month period allowed by the Civil Procedure Rules). The case was crowd-funded by a group to which the Appellant was linked. This claim was struck out in part and the remainder stayed pending the decision in the lead case brought by the boroughs. That case (*Hillingdon*) was heard on 4/5 July and dismissed in a judgement of Swift J on 28 July. Cockerell J dismissed the *White* case on 14 September. The Appellant told the tribunal that an application is being made to the Court of Appeal to restore the case for hearing.

The Preliminary Stages of the Request

7. On 7 March 2023 the Appellant wrote to the Greater London Authority (GLA) with an information request:

“To use your own data quoted in the Evening Standard (<https://www.standard.co.uk/news/london/sadiq-khan-ulez-cameras-payment-chargescheme-b1064837.html>), you say 27,000 tons CO2 will be saved. That is dwarfed by the 4.7 million tones of carbon emitted by replacing the 200,000 cars that you say will need to come off the road. Please can you therefore:

- 1. Explain where your 27,000 tonnes figure comes from.*
- 2. Forced replacement of 200,000 roadworthy cars at an average of 30 tonnes CO2 release per manufacture (excluding import, etc) is 6m tons CO2 emitted into the atmosphere. Is this taken into account in your figures?*
- 3. Likewise, have you taken into account the cost of transporting the scrap metal to Turkey, disposal of batterie, or emissions from import transportation?*
- 4. Your own figures suggest only 135kg (200,000/27,000,000) of CO2 savings per scrapped car. How do you square that with the (avg) 30 tonnes CO2 emitted per manufacture?”*

8. On 4 May the GLA replied:

“Please find below the information we hold within the scope of your request.

The principal aim of the ULEZ is to reduce harmful emissions from road transport by disincentivising the use of older, more polluting vehicles. The ULEZ specifically targets the air pollutants that are most harmful to human health: nitrogen dioxide (NO2) and particulate matter (PM). In addition to incentivising people to use less polluting vehicles, the London-wide ULEZ will also encourage a shift to active, efficient and sustainable modes of transport, thus delivering a reduction in carbon emissions.

The evidence base and expected outcomes of the proposals were set out in the key consultation documents, which are available on Transport for London’s consultation page: <https://haveyoursay.tfl.gov.uk/cleanair>.

Modelling was undertaken by Imperial College London working with TfL in order to assess the air quality impacts the ULEZ expansion could have. The result of this work is summarised in the key consultation document (‘Our proposals to help improve air quality tackle the climate emergency and reduce congestion by expanding the ULEZ London-wide and other measures’) and the Integrated Impact Assessment undertaken by Jacobs Ltd. (‘London-wide

ULEZ Integrated Impact Assessment (ULEZ Scheme IIA)'. Section 5.2.1 of the ULEZ Scheme IIA summarises the expected carbon impacts of the policy. Appendix B of the consultation document provides information on the modelling methodology in further detail. There is no need to switch to a brand-new or electric vehicle to meet the ULEZ standards.

Compliant vehicles have been widely available since 2006 meaning many people are likely to switch to a used, rather than new, vehicle. As set out in the scheme IIA, for scrapped vehicles there is a target for a minimum of 95 per cent recycling and recovery under the "End of Life (ELV)" directive.

The Mayor will continue to work with TfL and the boroughs to invest in policies to encourage and enable more walking, cycling and public transport use which will further address carbon and air pollution emissions in London."

9. If the Appellant had followed the link provided, the first document he would have come to was "Report to the Mayor: Proposed revision to the Mayor's Transport Strategy (MTS)" published in October 2022, another readily available document published in May 2022 entitled "Our proposals to help improve air quality, tackle the climate emergency, and reduce congestion by expanding the ULEZ London-wide and other measures". This extensive document (one of many) has in its contents "Updated WHO guidelines". At page 32 it sets out WHO targets and text on the policy:

The UK government is now consulting on new legal limits for PM2.5 and the Mayor has made the case for these to be aligned with the new interim WHO targets and for the legal limit for NO2 to be updated as well.

All London residents live in areas that are within the PM2.5 UK legal limits (25 µg/m³), as shown in Figure 13. However, more needs to be done to reduce the significant number of Londoners which live in areas exceeding the lowest WHO interim target of 10 µg/m³ (Table 5) and the even lower guideline of 5 µg/m³. Although there has been a reduction in Londoners living in areas of exceedance since 2016, 88 per cent of Londoners still live in areas which do not meet the lowest interim target (10 µg/m³), and all Londoners live in locations where concentrations exceed the guideline limit of 5 µg/m³.

10. The final sections of this document are:

Appendix B: Modelling methodology and data sources	95
Methodology and assumptions	95
London-wide unique vehicle estimates	96
Compliance rates	96
Vehicle switching and travel behaviour change	97
Compliance rates in 2023 with proposed changes	98
Hybrid Forecast	99
Appendix C: Air quality modelling	100
Appendix D: Air quality impacts	104

Air pollutant emissions	104
Air pollutant concentrations	112

11. At the end of June 2023 the Appellant was in correspondence with the Mayor’s Office concerning the expansion of the ULEZ arrangements. On 23 June he received a reply under his chosen email title *“Mayoral insults and refusal to follow the science”* explaining the policy approach and providing links to a range of documents

“As I’m sure you can appreciate, the GLA is receiving a high volume of correspondence about the ULEZ. Unfortunately, this means we are not able to respond to all enquiries individually. I have set out below more information about the reasons behind the Mayor’s decision to expand the ULEZ Londonwide and the support available for Londoners.

The Mayor has decided to expand the ULEZ across all London boroughs from 29 August 2023 to tackle the triple threats of air pollution, the climate emergency and traffic congestion, and ensure five million more Londoners can breathe cleaner air.

The Mayor made this decision following a public consultation and after taking into account a detailed consultation report and integrated impact assessment. The consultation report that explains the analysis process and sets out the themes raised during the consultation is now available for everyone to read on the GLA and Transport for London (TfL) websites.”

12. On 28 June 2023 he sent an email complaining about the TfL website: *“I spent over an hour preparing a message on your enquiry form, and tried to send it through at least 12 times. But each time received an error message. It is difficult to make complaints when your complaints procedure is not working. Below is the text of the message (your system has also lost all the formatting). Please respond with specific replies to the individual questions.”* There followed a number of detailed questions.

13. TfL replied indicating that it had difficulty in determining the nature of his inquiry to which he replied *“What is it you don't understand? I gave you a list of questions (see attached), as per the conversation I had with your team on the phone. Because your online enquiry form is not working. What other information do you need”*

14. On 5 July 2023 he wrote:

I do not understand what you are talking about. Your last email thanked me for the extra information, and now a week later you are saying you couldn't open it. So someone at TfL is lying. These were requests that were

- 1. initially put in through your online portal, only for that to reject the submission because your portal isn't working*
 - 2. sent by email, only for you to say you don't understand the email*
 - 3. sent as a full attachment to another email, for which you thanked me*
 - 4. now rejected by you on the basis you can't read attachments to emails*
- How am I supposed to get these FOI requests to you if you do not accept emails, attachments or submissions on your own FOI platform?*

15. He then sent TfL a communication addressed to himself on TfL's own headed paper apparently signed by a senior official which the Appellant had prepared:

"Please be advised we are deliberately trying to avoid answering the question you correctly set out in your various previous communications. The reason is we don't want you to have the information you're legally entitled to and so are making it as difficult as possible for you to submit your request. We actually enjoy this. But the underlying issue is that we know that the information we have put into the public domain is incorrect and are very nervous you will all find out. So please keep trying and we will continue to be as obstructive as we possibly can. Good luck!"

16. He wrote to TfL and the Mayor's Office on 7 July 2023 (after the oral argument in the lead case had concluded) setting out his background, his expertise, quoting from a Government report indicating one of the complexities of introducing a scheme *"I am concerned as to how the ULEZ extension sits with the Government's own Air Quality Action Group's Exhaust Emissions from Road Transport 2021 Report findings that "There can be large differences in emissions from vehicles within the same class from different manufacturers. This has implications for interventions based only on vehicle Euro standards."* He continued with a description of his personal transport needs and then set out five pages of questions seeking information about the imminent expansion of the Ultra Low Emissions Zone. (See the Annex to this decision).

17. On 26 July (two days before the *Hillingdon* case was dismissed) TfL replied explaining that because of the breadth of the requests of 28 June and 7 July and the amount of time it would take to source, extract review and collate the requested information from a range of sources within TfL the requests were being refused on the grounds that it was manifestly unreasonable. It recognised the public interest in disclosure promoting accountability and transparency and helping address concerns about the expansion of ULEZ but the disproportionate use of resources diverted from the core functions of TfL justified refusal; however it encouraged him to narrow the scope *"so that we can more easily locate, retrieve and extract the information you are seeking"*.

18. The Appellant sought an internal review of that decision on 29 July and TfL responded on 7 August 2023:

"To confirm on the 28 June and 7 July you submitted two requests consisted of in excess for 150 individual questions. Some of your questions were broken down into several further parts making a total of 178 individual parts that required an answer.

In the reply of 26 July, it was explained that under regulation 12(4)(b) of the Environmental Information Regulations (EIR), we are not obliged to comply with a request(s) if we believe that it is 'manifestly unreasonable' to provide all of the information you have requested in your 2 most recent requests, as it would impose an unjustified burden and significant impact on TfL staff requiring an unreasonable diversion of limited staff resources. Your requests place an onerous burden of cost and staff resource to address when there is already a vast amount of published information available for public scrutiny concerning these issues.

To explain further, the EIR allow public authorities to refuse a request(s) for information which is manifestly unreasonable. The inclusion of the word "manifestly" means that there must be an obvious or clear quality to the unreasonableness. The purpose of the applied exception is to protect a public authority from exposure to a disproportionate burden or an unjustified level of distress, disruption or irritation, in handling information requests. This exception can be used when the cost of compliance with the request(s) would be too great or is vexatious. In assessing whether the cost or burden of dealing with a request(s) is 'too great', a public authority is required to consider the proportionality of the burden or costs involved and decide whether they are clearly or obviously unreasonable.

As advised a large amount of information concerning the ULEZ expansion and emissions is already publicly available either on the TfL website or via published FOI requests. This current line of information and data being sought by yourself would divert staff away from their core functions within the organisation for unjustified amounts of time and impose undue burden onto a small team of subject matter experts to undertake."

19. The Appellant complained to the Information Commissioner on 7 August 2023. In his complaint he set out his position:

TfL are refusing to provide any information supporting their numerous claims regarding the ULEZ expansion scheme. They have made various assertions that, on the face of it, are incorrect, dishonest and/or scientifically unsupportable. We have been asking for answers since June, and they keep giving different responses, consistently refusing to answer the questions, and the scheme is due to be implemented by 29th August. If we are to issue an injunction to prevent it happening, we urgently need the information requested.

I have provided more context in the uploaded docs.

1. *Too Many Questions. The questions were crowdsourced from the public group of 35,000+ to avoid repetition. TfL say they would answer the questions one at a time, from individual members of the group, but not in one go. That is an abuse of process. It is ridiculous to require each question to be separately asked by a different individual. As the Mayor made multiple statements supposedly supporting the ULEZ expansion, it is unreasonable for TfL to say that FoI requests for each statement results in too many questions.*

2. *TfL have said that it is "not in the public interest" for them to spend the time required to answer the questions. This is nonsense. The issue has reached the front page of every national newspaper, and is the no 1 policy of the opposing mayoral candidate. It caused thousands of people to march on Trafalgar Square last weekend. It is the official reason stated for the Labour Party losing the Uxbridge byelection. In response to this excuse, I provided TfL over 400 emails/messages from the public to me directly supporting my request for this specific FoI (see attached doc). TfL chose to ignore that in their "internal review", and instead changed their reasoning to...*

3. *Proportionality. They now says this is not a proportional use of time/money. According to the press, TfL have spent between £1/4bn and £1/2bn on cameras, software, advertising and the scrappage scheme. The cost of preparing the answers, which anyway should already be*

available as the Mayor/TfL has relied of them in their various statements and the court case, is a tiny, miniscule proportion of the total spend. Further, considering the various personal tragedies, loss of business, freedom of transport, family connections, and work/job losses that people are suffering as a result of the expansion (as documented in the press), to claim it is disproportionate to provide the underlying supporting data for the scheme is contemptuous.

20. The Information Commissioner issued a decision notice on 18 October 2023. The Commissioner accepted TfL's position that

- a vast amount of relevant material had been published including FOI/EIR responses and a wide range of documentation including reports, consultation materials, studies and guidance. Some of the complainant's questions would likely be answered by this published material had he reviewed any of it.
- The large number of questions were excessive, disproportionate and an unjustified level of burden on small, specialised teams within TfL.
- On a conservative estimate of 10 minutes per question it would require 30 hours work however this request would require far more time as the wide range of questions covered many issues relating to information held in many different specialist areas *"TfL would need to establish for each question if it holds the information, where it's held in the organisation and who holds it. This is before TfL could then begin the process of identifying the information, extracting, collating and verifying it before any could be disclosed."*
- This would impose a significant burden, take staff from other core areas of managing the traffic system, would impact on vital operational work and would not be justifiable.

21. The Commissioner acknowledged that the ULEZ scheme affected a large number of people and also the Appellant's assertion that he was asking for information supporting statements that TfL had made about ULEZ which was ostensibly reasonable; but accepted TfL's arguments about the burden and complexity of the request and that it would not all be easily accessible. He took account of the decision in the Hillingdon case which had been announced before TfL carried out its internal review which "found that the decision was legally sound and that the process that had underpinned the proposal, including a public consultation, had been thorough." The Commissioner also found "there was and is also a significant volume of relevant information and research material in the public domain." He concluded that the request was manifestly unreasonable and then considered, at length, the public interest arguments. In so doing he acknowledged the demand from individuals in the social media group for copies of the replies, the widespread public debate and the political salience of the issue. In the light of the crowdsourcing of questions he did not consider the request was only of interest to the Appellant nor did he accept the suggestion that the request was intended to be disruptive. However the Commissioner concluded:

28. The Commissioner's view is that the public interest in TfL's decision to expand the ULEZ has been met satisfactorily through the high court decision, TfL's public consultation on the matter (which the high court decided was satisfactory), its response to other requests for

information about the ULEZ, the other relevant information and research that's already in the public domain and the relevant information that will be published in the future.

29. The Commissioner's decision is therefore that there's greater public interest in TfL being able to rely on regulation 12(4)(b) of the EIR to refuse the requests in this case, and not in TfL complying with the requests. This is so that TfL can focus its staff and resources on its core business, which includes managing the ULEZ and its consequences.

22. The grounds of appeal argue:

- The Commissioner made no mention of his own guidance and asserting that the Commissioner had materially failed to apply it citing (inter alia) that the Commissioner had not addressed the value of making the information available or the importance of the underlying issue
- Some information was not EIR and therefore should have been disclosed
- TfL and the Commissioner had failed to mention the presumption in favour of disclosure
- He argued *With a legal, CEO and Professor career spanning of over 30 years, I am quite capable of recognising a characteristic of obvious or clear unreasonableness, but I do not see it here.* He argued the ICO having stated that the request was on its face reasonable, could not then say that it was manifestly unreasonable
- Within a framework of criteria discussed in the ICO's guidance on "manifestly unreasonable" he argued that neither TfL nor the ICO had properly addressed the issue of cost, that given the scale of TfL's budget for ULEZ the cost of responding to the request did not create a disproportionate burden, that given the scale of TfL it could not cause disruption and that while TfL had stated that it did not hold all the information in an easily accessible form and ICO stated it had not seen compelling evidence to the contrary "First, I have never been given the opportunity to present evidence (compelling or otherwise) to the contrary. But more importantly, it is not my obligation to do so. It is TfL's obligation to demonstrate its reasoning for refusing to provide the information," he stated that no distress had been caused but even if it had been such distress was not "unjustifiable", that the request could not be disproportionate given the scale of TfL and the issues for residents.
- He argued a public interest in disclosure saying it would promote greater public awareness of environmental matters, more effective public participation in environmental decision making, that many people were affected and stated **"as the CEO of a leading environmental MRV company, I am one of tens of thousands of people who are suspicious of wrongdoing" (my emphasis).**

23. In subsequent submissions the Appellant expanded on these points, arguing that the ICO had failed to properly consider the three step test of manifestly unreasonable cases set out in *Vesco*, listing 9 groups of questions in the request which he claimed were not environmental information, one which was only partly environmental and accordingly had to be disclosed and arguing that *“The underlying issue here is that the ULEZ Expansion may not be an environmental policy at all, but a stealth tax providing TfL with almost 10% of its annual revenue, and its 2nd largest divisional profit, without actually benefitting the environment whatsoever”* and *“it cannot be the intention of Parliament that the more false statements an institution makes, the less it is open to challenge ”*
24. In resisting the Appeal the ICO relied on his decision notice, commented that his guidance was non-binding, and that while not explicitly mentioning the presumption in favour of disclosure it had been applied. He relied on *Henney* to submit that the issues identified by the Appellant were measures and elements affecting factors of the environment and accordingly within EIR, illustrating his arguments by an analysis of the various categories of questions identified by the Appellant (Annex 2). The correct approach was to consider issues broadly and with a request on this scale it was entirely appropriate to deal with it entirely under EIR. With respect to the public interest arguments the Commissioner maintained his position that the balance lay in favour of TfL relying on the manifestly unreasonable exemption.
25. In the hearing the Appellant reaffirmed his position and explained that the solicitors acting for *White* were the moderators of the website from which he had gathered the information requests. He thought it would be reasonable and more efficient if he gathered all the requests in one document and TfL responded to that request. He stated that there were 400,000 people on the various forums and with a neighbour he had pulled the requests together to streamline requests. He asserted that many of the Mayor’s statements undermine the basis for ULEZ expansion. He stated that *“a lot of people all over social media are saying it is a con”*. He claimed that a widely referred to report prepared by Imperial College *“the only report supporting ULEZ, had not been [peer] reviewed.”* He acknowledged that *“some of the data may well be here on some of these links”*. He stated that when he *“put two paragraphs from TfL/ICO on the website I got 400 responses which were in the bundle.”* He had then *“stepped aside from the group.”*
26. He argued that much of the information he sought was not environmental arguing the number plate recognition cameras were not *“intrinsically linked to emissions”* and that ULEZ *“was merely a taxation policy to provide revenue under false pretences”* He argued that the cost of finding the information was negligible in comparison to the revenue generated from the charging scheme.

Legal Framework

27. This is an appeal to the tribunal against a decision by the Information Commissioner that Regulation 12(4)(b) of the Environmental Information Regulations 2004 *“the request for information is manifestly unreasonable”* applies to the request. Regulation 18(1) provides that the enforcement and appeals provisions of the

Freedom of Information Act 2000 govern appeals against the determinations of the Information Commissioner under EIR. Part V of FOIA provides:

57 Appeal against notices served under Part IV.

(1) Where a decision notice has been served, the complainant or the public authority may appeal to the Tribunal against the notice.

...

58 Determination of appeals

(1) If on an appeal under section 57 the Tribunal considers –

(a) that the notice against which the appeal is brought is not in accordance with the law, or

(b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.

(2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

28. Accordingly this is a full merits appeal where the tribunal, in addition to considering the competing legal arguments, will also consider the factual circumstances in order to consider on the balance of probabilities what relevant findings of fact are appropriate.

29. By Regulation 2(1) of the Environmental Information Regulations 2004 “environmental information” is defined in the same words as are used in Article 2(1) of Directive 2003/4 any information in written, visual, aural, electronic or any other material form on –

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect

the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);”.

30. Part 2 of EIR provides, by Regulation 5:

4(1) Subject to paragraph (3), a public authority shall in respect of environmental information that it holds-

(a) progressively make the information available to the public by electronic means which are easily accessible; and

(b) take reasonable steps to organise the information relevant to its functions with a view to the active and systematic dissemination to the public of the information.

...

(3) Paragraph (1) shall not extend to making available or disseminating information which a public authority would be entitled to refuse under regulation 12.

31. Part 3 of EIR provides for exceptions to the duty to disclose environmental information and by regulation 12:

Exceptions to the duty to disclose environmental information

12. – (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if –

(a) an exception to disclosure applies under paragraphs (4) or (5); and

(b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

(2) A public authority shall apply a presumption in favour of disclosure.

.....

(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

(a) it does not hold that information when an applicant’s request is received;

(b) the request for information is manifestly unreasonable;

32. The regulations were made as the implementation of an EU directive. In turn the directive gives effect to a treaty under the auspices of the United Nations Economic Commission for Europe, the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. In his foreword to the second edition of the Implementation Guide to the Convention the UN Secretary-General commented:

“The Aarhus Convention’s twin protections for environmental and human rights; and its focus on involving the public, provide a mechanism for holding governments to account in their efforts to address the multi-dimensional challenges facing our world today, including climate change, biodiversity loss, poverty reduction, increasing energy demands, rapid urbanisation, and air and water pollution.”

33. The three pillars of the Convention, access to information, public participation and access to justice are integral to the policy behind the Convention; and one account of the logic of the Convention is that information enables participation which gives standing to seek a judicial remedy in the event that participation did not produce a satisfactory outcome.

Consideration

34. In this request about information regarding ULEZ the order is somewhat reversed from that envisaged by *Aarhus*. ULEZ starts as a policy response to litigation and referral to the ECJ because of poor air quality in London. The latest expansion of the zone was signalled by the publication of a large amount of data by the Mayor/Greater London Assembly/Transport for London (small samples of which are included in paragraphs 9 and 10 above) in discharge of their duties – including under regulation 4 (above). There was then an extensive public consultation and considerable public debate. The results of that exercise in public participation were considered and published as the Mayor announced that the extension would proceed. The ULEZ process then moved on to the third leg of the Aarhus Convention with applications to the Administrative Court in early 2022. The lead case (*Hillingdon*) was brought by local authorities for areas affected by the expansion, clearly reflecting the concerns of some of their residents. The other case *White* was significantly cut down in scale and stayed pending the outcome of *Hillingdon*. After the arguments in *Hillingdon* had been heard the Appellant submitted his exceptionally long list of information requests. The comment by the Commissioner in paragraph 28 of the decision note (paragraph 21 above) is entirely appropriate.

35. The grounds of appeal are misguided or tendentious.

- As the Commissioner correctly pointed out his guidance is guidance not law.
- The Commissioner's analysis set out in Annex 2 which maps categories of question to the definition of environmental information is clearly sound. All the requests seek information about elements of the environment, factors affecting those elements, measures etc. The definition of environmental information is wide, properly interpreted it covers the entirety of the request, and as per *Henney*, one must have due regard to the "bigger picture". If there are small elements which do not fall within environmental information then they are de minimis. Furthermore the analysis of "manifestly unreasonable" under EIR is in essence the analysis of "vexatious" under FOIA, if the Commissioner had parsed each and every question into one category or another the result and (improbably) produced a substantial list of requests which did not fall within EIR then the correct analysis would have concluded that that part of the request was vexatious.
- Whether or not the Commissioner sufficiently addressed the regulation 12(2) presumption in an appeal under s58, the tribunal can remedy that defect.
- While the Appellant may have considerable experience of recognising things as being unreasonable, individuals often have difficulty in perceiving their own shortcomings. The fact that the Commissioner acknowledged the superficial value of the requests does not prevent the Commissioner from characterising it on a closer examination as manifestly unreasonable. In any event under s58 the tribunal makes its own findings of fact.
- The Appellant's arguments as to cost are somewhat weak. TfL provided a convincing explanation of the difficulty of identifying where the information (if held) would be, the disruption of involving specialists in different areas of the organisation and the impact it would cause. The logic of his argument would appear to be that a large organisation should be prepared to spend several percent of its revenue on an information request is somewhat strange. If an individual requests environmental information then it should be supplied, even if the cost runs into many thousands of pounds and causes disruption to a large organisation; or perhaps it is more solipsistic - if I make a request for information it should be provided whatever the cost. TfL's conservative estimate of the costs was properly characterised by the Commissioner as *very conservative* and Wikely J's decision in *Craven* is determinative of the issue for this tribunal:

"Taking the position under the EIR first, it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as "manifestly unreasonable", purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent to section 12 of FOIA makes such a conclusion inescapable."

While in his grounds of appeal he stated that he had not been given the opportunity to present his own evidence on the issue, in the hearing he had the opportunity but did not give any evidence to indicate that the Commissioner was wrong to conclude that answering the requests would cause a significant burden.

- The Appellant argued that no distress had been caused but even if it had been such distress was not “unjustifiable”, that the request could not be disproportionate given the scale of TfL and the issues for residents. While this may be so; the tribunal noted a level of irritation, suspicion and aggression towards the Mayor (paragraph 11 above “Mayoral insults and refusal to follow the science”) mocking of TFL staff (paragraph 15 above) and accusations of bad faith (paragraphs 25, 26) which would tend to support a conclusion that the request was manifestly unreasonable.

36. There are in addition issues around the methodology he adopted in compiling his request. While he must have been aware of much of the material published by the public authority since it had been drawn to his attention in connection with a previous request and subsequently; he showed some reluctance to look for himself. He told the tribunal “I could spend days and days looking for it myself but I have FOIA”.
37. Given the range and scope of information in the public domain published by TfL in connection with ULEZ expansion, by London local authorities and health authorities, by government departments or available in the clinical and scientific literature it is appropriate to consider the extent to which this information has already been published or directly signposted by TfL.
38. On his account he complied the request by looking at questions posted by people on a website of a campaigning group opposed to ULEZ expansion. An examination of the list of questions indicates some difficulties for any person seeking to answer them. Certain questions refer to attached documents (not attached), others rhetorically seek advice, some appear more motivated by annoyance than a search for information. However, the Appellant appears to have treated them all as equally valid and shows no sign of reviewing these questions critically. While on his account he omitted many other questions the ones he did include have some significant weaknesses.
39. A difficulty with this approach is that if a public authority is attempting to provide information to the public in accordance with EIR regulation 4 (electronic publication) and providing guidance and assistance (EIR regulation 9) and in accordance with the statutes directly related to the government of Greater London’s exercise of its functions relating to transport; there is clearly a concomitant obligation on the Appellant to use those sources.
40. While the Appellant argued that by answering all these queries in one place a useful resource would be created which would efficiently resolve many requests for information, the likelihood that it would be widely consulted and the specific focus

on one part of the new area subject to ULEZ expansion indicates that it would be unlikely to significantly add to public understanding. The methodology behind compiling this list points to a desire to build and support a community of opposition to the expansion of ULEZ rather than a desire to increase public understanding, giving individuals the perception that their voice of opposition to the expansion is widely shared - some at least of the questions are concerned with expressing annoyance. In his appeal he quoted from the ICO guidance on the public interest in disclosure of environmental information:

The weight of this interest will vary from case to case, depending on the issue's profile and importance and the extent to which the information will actually inform public debate.

- 37 While the issue is important and has a significant public profile the value of the disclosure of the information to the Appellant (when so much is already in the public domain due to publication by TfL, government departments, London boroughs, the clinical journals covering public health and elsewhere) would be very slight.
- 38 In considering the presumption of disclosure; it is clear that this comes into its own when there is a near balance between the two arguments, in this case, the lack of critical analysis of the questions before submitting them, the failure to seriously address material already released, the failure to distinguish between requests for information, rhetorical requests for advice clearly intended to be points of argument rather than requests seeking information, the underlying methodology for its compilation, the unclear relationship with the almost concluded judicial review mean that it does not shift the balance which was correctly identified by TfL and the Commissioner and which falls decisively in upholding reliance on the exemption.

Signed Hughes

Date: 3 November 2024

ANNEX 1

7 July request

A. Public Health

1. What asthma data have you been using to support your argument that asthma:

i. is higher in London (ULEZ and/or NULEZ) than elsewhere

ii. is caused by air pollution from cars

2. Since ULEZ was introduced, what changes within the ULEZ Zone have there been in:

i. levels of asthma

ii. the number of deaths attributed to asthma

iii. levels of lung cancer

iv. the number of deaths attributed to lung cancer

3. How has your figure of 4,000 deaths been compiled?

4. What data sits behind the Mayor's 2016 statement "With nearly 10,000 people dying early every year in London due to exposure to air pollution, cleaning up London's toxic air is now an issue of life and death"

5. How many of these deaths had, as the cause of death:

i. Air Pollution

ii. Asthma

iii. Lung Cancer

6. How many deaths in NULEZ in the last 5 years (or for whatever dates you have available) have been/you attributed to Air Pollution, and how has that figure come about?

7. How many of these have been attributed to (or, how have they been allocated as between):

i. Vehicle emissions (private ownership)

ii. Public transport (tube, train and bus)

iii. Industry and factory emissions

iv. Household emissions

v. Aircraft emissions

vi. Other

8. What methodologies have you used in calculating the figures in Q1 to Q6 above?

9. How do these figures compare with those relating to the ULEZ area?

10. What evidence do you have that any deaths in London in the last 10 years were due to car (or vehicular) emissions?

B. Air Pollution

1. What are the current levels in:

i. London Borough of Barnet?

ii. NULEZ generally

iii. ULEZ

2. How much will this be reduced in NULEZ specifically by the Extension?

3. What is the timeframe for this?

4. What proportion of air pollution in NULEZ do you consider to come from:

i. Vehicle emissions (private ownership)

ii. Public transport (tube, train and bus)

iii. Industry and factory emissions

iv. Household emissions

v. Aircraft emissions

vi. Other

5. What proportion of air pollution in ULEZ do you consider to come from:

i. Vehicle emissions (private ownership)

ii. Public transport (tube, train and bus)

iii. Industry and factory emissions

iv. Household emissions

v. Aircraft emissions

vi. Other

6. How do these compare with the Camden Council's figures (sourced from the GLA) published in 2013?

7. What are the current air pollution figures on the London Underground for:

i. CO₂

ii. NO_x

iii. Particulates

8. How have these figures changed over the last 10 years?

9. What is the rationale – if pollution is the issue being addressed – for charging drivers to pollute “legally”, rather than an introduce overall ban?

C. Emissions

1. What are your current emissions figures for compliant cars in terms of:

i. CO₂

ii. NO_x

iii. Particulates from tyres

2. With reference to your 2013 published figures (attached), how much have emissions since gone up or down:

i. in NULEZ

ii. in ULEZ

3. Which areas in NULEZ now exceed the 40ug limits, and would therefore have a different (yellow/orange/green) colour on the attached map?

4. What impact (numerically) will the Extension's removal of non-compliant petrol cars from circulation have by 2030, considering the Government's and NAEI's findings (prior to the announcement of NULEZ), that “NO_x emissions are predicted to decrease by 65% by 2030 relative to 2017 levels but remain dominated by diesel cars and LGVs (79%).”

5. Why have you chosen to focus on nitrous oxide and nitrogen dioxide (together “NO_x”) over:

i. Emission of tyre particulates, or

ii. carbon footprint?

6. What percentage of emissions are from cars rather than truck, lorries and other commercial vehicles?

7. What figures are you using for tyre particulate emissions and how does that impact your emissions data?

8. To what extent have you taken into consideration cars' weight when determining particular emissions? In particular, what figures are you using for typical/average weight of:

i. non-compliant cars

ii. new EVs

9. How many more EVs will there be on the road as a result of the Extension?

i. How much increase in emitted particulates will be due to these new EVs?

10. Can you confirm that:

i. no compliant car's official emissions figures exceed and non-compliant car's figures?

ii. (according to official manufacturers' figures) all compliant diesel cars emit less than all noncompliant petrol cars?

11. If not, what is your official justification for allowing modern "compliant" diesel SUVs over older "noncompliant" petrol cars, where the former emit far more pollutants than the latter

12. How do you know the NOx levels of cars that were not manufactured in accordance with Euro standards (eg. imported from Asia where Euro standards do not apply)?

D. Cars in Circulation

1. How many current working vehicles will be scrapped due to the Extension?

2. How many new cars do you anticipate being bought as a result the Extension?

3. How many cars do you believe will be removed (net) from circulation as a result of the Extension?

4. If you anticipate a net reduction, how do you reconcile that with the number of cars in circulation in London remaining static for 15 years, despite various scrappage schemes?

5. When you say the "last scrappage scheme, which saw the removal of more than 15,000 polluting vehicles from London's roads", how many of those were replace with new cars?

6. How has the initial expansion of ULEZ to the north/south circular effected the number of cars owns or in circulation?

E. Climate Change

1. What carbon reduction figures are you using to illustrate that this is a “climate and nature-positive” policy?
2. What data supports your suggestion that the Extension is climate positive, when all the science says the exact opposite?
3. To what extent have you considered the carbon footprint of new cars in your calculations on the climate change impact of the Extension?
4. What plans have been put in place to deal with additional carbon footprint of the Extension?
5. What figure have you used for the carbon footprint of manufacturing a new vehicle?
6. Does this figure include:
 - i. Manufacturing?
 - ii. Import / distribution?
 - iii. Battery raw materials scrapping?
 - iv. Socio-economic issues and ethics of lithium mining?
7. What figure have you used for the carbon footprint of scrapping?
8. What steps have you taken to deal the carbon footprint of scrapping:
 - v. Reducing the 70% of scrap car metal that gets shipped to Turkey (UK’s current policy)?
 - vi. Battery recycling?

F. Congestion

1. What are the current congestion figures for Barnet? (or the area covered by NULEZ)
2. How much will this be reduced by the Extension?
3. What is the timeframe for this?
4. Will this comparison be done on a like-for-like basis (ie. no traffic measures implemented just prior to the policy)
5. Do you believe faster or slower moving traffic creates more pollution?
6. What changes have you made to traffic light sequencing in the 12 months leading up the implementation of NULEZ?

G. Revenues and Taxes

1. How much money do you anticipate earning through the Extension for each of the next 5 years?
2. Is this a tax, and if not, how does it differ to the Congestion Charge that US Diplomats are exempt from paying?
3. How much Congestion Charge do you estimate you have lost through non-payment by foreign diplomats over the last 10 years?
4. What percentage of the GLA budget for each of the next 8 years is anticipated to be reflected by income from ULEZ fines (please specify each yearly amount)?
5. What is the GLA's "Plan B" should there be no such income (ie. full compliance)
6. What is the average cost to the GLA of pursuing a non-paying charge of ULEZ to the point of appointing bailiffs?

H. Consultation and Cameras

1. How many people were consulted regarding NULEZ and the Extension?
2. How were those consultations sent out?
3. What was the wording on the questions?
4. How many responses did you receive?
5. How many people agreed with NULEZ and/or the Extension?
6. How many of these people own non-compliant vehicles?
7. What was the breakdown by borough for each of Q1 to Q6 above?
8. How many cameras have you ordered?
9. When were they ordered?
10. How much did they cost?
11. What was the tender process put in place, and how was this company chosen
12. What are the terms in the procurement contract in relation to what happens if the Extension does not go ahead?

I. ULEZ Compliance

1. Where does the TfL data on compliant / non-compliant cars come from?
2. On what basis would I be "fined" if I do not pay a ULEZ charge?
3. Is this a criminal offense, or a civil matter?

4. Either way, what is the statutory framework sitting behind your/TfL's right to fine me?
5. Likewise, what happens if I do not then pay the fine, and on what legal basis?
6. How do you/TfL obtain my personal details, and that of my car?
7. How does this meet ICO and DPA requirements?
8. If my car passes MOT emissions requirements, why is it illegal to drive it in anywhere London without paying an additional charge?
9. How do you know if/whether/that my car – which is “non-compliant” because it is older than your arbitrary cut-off date – is in fact less polluting than my neighbour's compliant car?
10. If the owner of a “legal grey import” (eg. Japanese) car cannot obtain NOx data or a CoC from the manufacturer (eg. because s/he doesn't speak the language, the data is not available, or the manufacturer has ceased to exist), are they presumed guilty or is there an exemption whereby they can be presumed innocent until proven guilty?

J. Dangers and Annoyances

11. How many electric car fires have there been in London in the last 5 years
12. How many electric bus fires have there been in the last 5 years
13. Is the number of electric vehicle fires higher or lower (in proportion) for EVs than ICE cars?

K. Demographics and TfL Statistics

1. How many households are likely to be affected by the extension by virtue of having non-compliant cars?
2. What percentage of those are eligible for the scrappage scheme?
3. What are the age demographics of those households with non-compliant cars (and how does this compare with the UK and/or London average)?
4. What are the household income demographics of those households with non-compliant cars (and how does this compare with the UK and/or London average)?
5. How many days per week does a non-compliant NULEZ-based car typically drive?
6. How many miles do they typically drive per week in NULEZ?
7. How many non-compliant cars driven in London are owned by households outside London?
8. How many days per week do those cars typically drive in London?

9. What exemptions are there for paying NULEZ charges, and what is the rationale behind each exemption?

10. Where were the cameras which were used to calculate your headline figure of "9 in ten cars are compliant" (please provide a map)

11. How many were used, and what proportion of the total cameras available is that?

vii. What was the rationale in choosing those specific locations?

viii. If "random", please provide the statistical reasoning of the choice

12. How have you chosen the area covered by NULEZ, considering the Government's own finding that "Analysis of ambient air pollution concentrations shows that the rate of change in exhaust emissions varies from place to place with no clear pattern"

L. Alternative transport

1. What plans have been put in place for people who are not eligible for the scrappage scheme?

2. If no plans, what do you expect them to do?

3. What specific measures have been put in place for those who are unable to continue using/owning a car?

4. How many bus routes have been removed in the last 8 years in the area covered by NULEZ

5. How many miles (net) of bus routes have been removed have been removed in that time

6. How many miles of new tube network within NULEZ:

ix. Have been launched in the last 8 years

x. are committed to for the near future (and to open when)

7. In my earlier example, where I own a roadworthy MOT'd car, and drive it 6 days/wk to visit elderly parents, play football and do the weekly shop (each 15mins drive, no public transport options), and I don't qualify for any of your "help", what am I supposed to do?

M. Will Of Parliament

1. In launching the Extension, what consideration was given to the will of Parliament with regard to:

xi. the Right to Repair Act,

xii. the Consumer Rights Act 2015

xiii. the Ecodesign for Energy-Related Products and Energy Information Regulations 2021 (adopting) the EU Circulatory Economy Action Plan (p2 link here)

2. Is that consideration minuted? (If so, please provide)

3. Why is TfL / The Mayor not following the example of white goods, food, consumer electronics, fashion (etc) in moving away for planned and forced obsolescence?

4. In particular, what is TfL's explanation for a policy that directly conflicts with the will of Parliament?

5. How does TfL reconcile the extension with the following statements by parliament expressing its will to:

xiv. "ensure that the regulatory framework is streamlined and made fit for a sustainable future, that the new opportunities from the transition are maximised, while minimising burdens on people and businesses";

xv. "establish a strong and coherent product policy framework that will make sustainable products, services and business models the norm and transform consumption patterns so that no waste is produced in the first place [with] key product value chains addressed as a matter of priority. Further measures will be put in place to reduce waste and ensure that the EU has a well-functioning internal market for high quality secondary raw materials"

xvi. "entire life cycle of products. For example, it targets how products are designed, promotes circular economy processes, encourages sustainable consumption, and aims to ensure that waste is prevented, with valuable resources kept in the EU economy for as long as possible."

xvii. "These benefits will help us on our way towards the UK's Carbon Budget and Net Zero targets"

xviii. "An important aim of the new Regulations is to extend the life of certain categories of products"

xix. "It is hoped that prolonging the life... and delaying the need to buy expensive replacements will prevent unnecessary waste"

xx. "New rights ... should enable consumers to repair goods when they break down and so continue using them even when their statutory rights to have them repaired or replaced under the have expired"

xxi. Secretary of State for BEIS: "Our plans to tighten product standards will ensure more of our electrical goods can be fixed rather than thrown on the scrap heap, putting more money back in the pockets of consumers whilst protecting the environment."

xxii. "With this legislation we aim to reduce the energy-use, carbon footprint and wider environmental impacts of energy-related products"

I look forward to hearing from you. As these issues are clearly of an urgent nature, please provide a response within 14 days.

Yours sincerely

Adam Davies

CEO, Nature MRV Ltd

Science for Compliance™

ANNEX 2

- i. Congestion – congestion is a factor that affects various elements of the environment (air, landscape to name just two), so information on this falls under Reg 2(1)(b), it could also be seen as a measure (Regulation 2(1)(c)).
- ii. Consultation and Cameras, - questions about consultation and cameras fall under Regulation 2(1)(c) (measures) as these affect the elements (air, to name one) and are intrinsically linked to the factors (emissions) (Regulation 2(1)(b)). Information on consultations fall under Regulation 2(1)(d) (reports on environmental legislation), and question about how much ULEZ cost falls under Regulation 2(1)(e) (cost benefit and economic analyses).
- iii. Cars in Circulation, - falls under Regulation 2(1)(c) as ULEZ is primarily a measure to protect elements (Regulation 2(1)(a));
- iv. Revenue and Taxes, Compliance, - information on compliance falls within Regulation 2(1)(d) and information on revenue and taxes falls squarely in Regulation 2(1)(e) ‘cost benefit and other economic analysis and assumptions used within the framework of the measures and activities referred to in (c) (‘measures’)
- v. Dangers and Annoyances, - electric car fires affect the elements of the environment so falls within the definition of ‘factor’ Regulation 2(1)(b);
- vi. Demographics, TfL Statistics, - - information on the effects of ULEZ could fall under Regulation 2(1)(c) (measures and activities), stats could fall under 2(1)(d) reports on environmental legislation and/or 2(1)(e) – cost benefits and 2(1)(f) – conditions of human life, especially the questions about how ULEZ will affect households with non compliant cars.
- vii. Alternative Transport and – falls under Regulation 2(1)(c) as a measure or activity affecting both elements and factors;
- viii. conflict with the Will of Parliament – falls within Regulation 2(1)(d) as conflict with other laws/Parliament falls within the definition of monitoring or evaluating the success or failure of ULEZ.