

Low Emission Zone Penalty Charge Notice Net Surplus Income Policy

Approved by Committee on
20xx with an implementation date of 20xx

Document Control

| | |
|-----------------------------------|--|
| Approval Date | - Calibri Regular12pt |
| Implementation Date | |
| Policy Number | POL-SPP-0010 |
| Policy Author(s) and Owner | Author: Will Hekelaar Owner: David Dunne, Chief Officer – Strategic Place Planning |
| Approval Authority | Net Zero, Environment and Transport Committee |
| Scheduled Review | |
| Date and Changes: | |
| N/A – new policy | |

Table of Contents

| | | |
|----|---|---|
| 1 | Why does the Council need this Policy?..... | 3 |
| 2 | Application and Scope Statement..... | 3 |
| 3 | Responsibilities | 4 |
| 4 | Supporting Procedures & Documentation | 4 |
| 5 | About this Policy | 5 |
| 6 | Risk..... | 6 |
| 7 | Environmental Implications | 7 |
| 8 | Policy Performance | 7 |
| 9 | Design and Delivery | 7 |
| 10 | Housekeeping and Maintenance | 8 |
| 11 | Communication and Distribution | 8 |
| 12 | Information Management | 8 |

1 Why does the Council need this Policy?

- 1.1 A policy requires to be established for the use of any net surplus income arising from enforcement of the Aberdeen Low Emission Zone (LEZ).
- 1.2 Aberdeen City Council (ACC) declared a LEZ in the city centre on 30th May 2022, with enforcement to commence from 1st June 2024. Enforcement will encompass the issuing of a Penalty Charge Notice (PCN) to the registered keeper of any non-compliant and / or non-exempt vehicle that enters the LEZ.
- 1.3 Legislation governing LEZs was established in the Transport (Scotland) Act 2019. The Act states that:

Any monies received from penalty charges in respect of a low emission zone scheme may be applied by the local authority only for the purposes of—
(a) facilitating (directly or indirectly) the achievement of the scheme's objectives, and
(b) if (and only if) any surplus remains, making any repayments required as a condition of a grant under section 25(1)(b).

- 1.4 ACC has confirmed with Transport Scotland that, in reference to point (a), any PCN income must be used first and foremost to cover the operational and maintenance costs of the LEZ enforcement system. Should there be any income remaining once operational costs have been covered, the local authority can spend this on projects that will further improve air quality within the LEZ or the wider City Centre Air Quality Management Area (AQMA). If the income exceeds operational costs and ACC cannot identify relevant projects to direct this money towards, it would have to be paid to Scottish Ministers to offset previous LEZ grant funding awarded to the Council.
- 1.5 The level of compliance with the LEZ is assumed to be high and will further improve as individuals and businesses replace their vehicles and fleet. Nevertheless, should the situation arise where surplus PCN income exists, it is prudent for ACC to have a policy in place for assigning this income, to ensure it can be used appropriately and in accordance with legislation.
- 1.6 Failing to adopt a policy for the appropriate use of surplus LEZ PCN income could result in ACC acting contrary to the Transport (Scotland) Act 2019. If a policy is not established and agreed between the Council and Transport Scotland, any surplus LEZ PCN income would have to be paid to Scottish Ministers.

2 Application and Scope Statement

- 2.1 The policy will guide the decisions of Council officers and Committees on the use of surplus LEZ income.

3 Responsibilities

- 3.1 The Chief Officer – Strategic Place Planning is responsible for overseeing this policy and its implementation.

- 3.2 The policy will be administered by officers in the Transport Strategy and Programmes team. Specific responsibilities will be:

- Inviting applications on an annual basis for the use of LEZ net surplus income from Council teams;
- Reviewing applications and developing a prioritised list of projects for funding, in agreement with the Chief Officer and endorsed by the relevant Committee(s);
- Determining the surplus income available for release for projects on a quarterly basis;
- Awarding the funding to eligible projects as it becomes available;
- Monitoring the progress of projects funded via the LEZ surplus income;
- Monitoring income and expenditure;
- Annual progress reporting;
- Seeking any necessary approval or confirmation from Transport Scotland that projects meets the criteria for use of net surplus income spend.

- 3.3 The Transport Programme Board (TPB) will be responsible for approving the recommended prioritised list of projects prior to submission to the Net Zero, Environment and Transport Committee.

- 3.4 The Net Zero, Environment and Transport (NZET) Committee will be responsible for formally approving the policy and approving the list of projects to be supported by the surplus income on annual basis.

- 3.3 Feedback on the policy should be directed to:
transportstrategy@aberdeencity.gov.uk.

4 Supporting Procedures & Documentation

- 4.1 The proposed application form for the use of the LEZ surplus income is included as Appendix 1 to this policy.

- 4.2 This will be sent out to relevant Council teams on an annual basis to nominate projects for funding in the next financial year.

5 About this Policy

- 5.1 The policy requires applications for the use of LEZ surplus income to demonstrate how the nominated projects further the objectives of the LEZ or otherwise improve air quality in the City Centre AQMA. This will ensure that any surplus income is used by the Council in accordance with the Transport (Scotland) Act 2019.
- 5.2 Projects will be allocated funding based on the contribution they make to the aims and objectives of the LEZ, AQMA and / or the wider Air Quality Action Plan (AQAP). When projects are submitted for consideration to the fund, these will be scored in the following manner:
- 4 – project directly supports and contributes to an improvement in air quality within the LEZ or wider AQMA;
 - 3 – project supports the AQAP via encouraging and facilitating an increase in active travel (walking, wheeling or cycling);
 - 2 – project supports the AQAP via encouraging and facilitating an increase in public transport use;
 - 1 - project supports the AQAP via enabling an increase in shared and low emission vehicle use.

Additional marks will be awarded for projects that can be linked directly to the AQAP and Local Outcome Improvement Plan (LOIP), or which otherwise support the Council's transport and net zero strategies or City Centre Masterplan (CCMP).

- 5.3 Self-scored applications will be submitted on the agreed project proposal template, with applicants responsible for ensuring appropriate consultation has taken place on the proposal prior to submission. Applications will then be reviewed by the Policy and Strategy Manager and the Chief Officer – Strategic Place Planning, and re-scored if required. Projects which meet the required criteria will then be prioritised based on the scores awarded.
- 5.4 The prioritised list of projects will be presented to the TPB for approval, prior to submission to the NZET Committee. Assuming approvals are given, funding will be released for the projects on a prioritised basis as it becomes available.
- 5.5 Successful applicants will be responsible for ensuring that projects are delivered, monitored and reported in accordance with TPB governance requirements.

5.6 This process mirrors that which is undertaken annually for the Bus Lane Enforcement (BLE) net surplus income, thus ensuring that prospective applicants are aware of the process and requirements and allowing for efficiencies in the preparation and consideration of applications.

6 Risk

6.1 This policy and its supporting documentation will manage the following risks:

- **Strategic Risks** – ACC has a statutory duty to improve air quality in the AQMAs to ensure continued public health and wellbeing. A policy for the use of surplus PCN income that further contributes to LEZ and wider air quality objectives should result in further improvements in air quality, in line with legal obligations;
- **Compliance Risks** – Failing to adopt and implement a policy for the appropriate use of surplus LEZ PCN income could result in the Council acting contrary to the Transport (Scotland) Act 2019;
- **Financial Risks** – If a policy is not established and implemented to ensure appropriate use of funds, there is a risk that any surplus income has to be paid to Scottish Ministers;
- **Reputational Risks** – There may be reputational risks should the Council be seen to contravening the Transport (Scotland) Act 2019 and not using any surplus LEZ PCN income for approved purposes. There are also reputational risks associated with not maximising the use of this income in the City and having to pay it to Scottish Ministers; and
- **Environment / Climate** – There are risks around air quality deterioration and a gradual erosion of the LEZ benefits if supporting measures are not put in place to further reduce air pollution in Aberdeen.

6.2 It is anticipated that proposed expenditure will be reported to Transport Scotland for approval to ensure compliance with the Act and reduce risks of any income having to be paid to Scottish Ministers.

6.3 Income and expenditure will be regularly monitored to ensure sound financial management of the programme. An annual report on income and expenditure will be prepared and shared with Transport Scotland to ensure transparency of expenditure.

6.4 Air quality monitoring is undertaken regularly and reported in annual AQAP Progress Reports, allowing an assessment of the impacts of individual projects on air quality.

7 Environmental Implications

- 7.1 The legislation states that any projects taken forward with surplus LEZ PCN income must aim to further the objectives of the LEZ, which are primarily to improve air quality. The proposals therefore should result in a reduction of harmful emissions within the City Centre AQMA. Such projects are anticipated to be those that contribute to traffic reduction, support an increase in low or zero emission transport use in the area, and / or develop or enhance blue/green infrastructure within the AQMA.
- 7.2 Although the primary objective is air quality improvement, projects are likely to have secondary benefits such as carbon reduction, noise reduction, street greening, etc.

8 Policy Performance

- 8.1 The factors determining whether the policy is effective are:
- Development and delivery of an annual programme of projects for use of any LEZ surplus income, agreed with the Council and Transport Scotland – this should eradicate the compliance, financial and reputational risks described above; and
 - Continued improvement of air quality in the City Centre AQMA resulting from the delivery of such projects, thus mitigating the strategic and environmental risks described above.
- 8.2 Success will be measured by:
- Delivery of an annual programme of projects using LEZ surplus income;
 - An improvement in air quality in the City Centre AQMA, in addition to what will be achieved via the LEZ alone.
- 8.3 A report will be presented to the NZET Committee on an annual basis, with an update on project progress and a proposed programme of expenditure for the subsequent financial year. Monthly progress on the programme will be reported to the TPB, including any risks, issues and project change requests.
- 8.4 Air quality is reported annually via ACC's Air Quality Annual Progress Reports.

9 Design and Delivery

- 9.1 The policy supports the delivery of the following LOIP Stretch Outcomes:
- 11 – *Healthy life expectancy is five years longer by 2026*, in that projects resulting from the policy will have as a key objective air quality improvement,

which will contribute to improving the health and wellbeing of all those living in and visiting Aberdeen;

- 13 - *Addressing climate change by reducing Aberdeen's carbon emissions by at least 61% by 2026 and adapting to the impacts of our changing climate*, in that the majority of projects to improve air quality are likely to also have carbon reduction benefits; and
- 14 – *Increase sustainable travel: 38% of people walking and 5% of people cycling as main mode of travel by 2026*. Projects which support a reduction in emissions via an increase in walking and cycling would be eligible for funding via the net surplus income.

9.2 The policy supports the Regional and Local Transport Strategy as well as the Net Zero Routemap, in that it is likely to support the delivery of projects to encourage more sustainable travel and a reduction in harmful and climate-changing emissions.

10 Housekeeping and Maintenance

10.1 The policy will be reviewed annually as each year's programme of projects is developed.

10.2 An application form for projects seeking funding from the LEZ surplus income has been developed in support of the policy.

11 Communication and Distribution

11.1 Upon approval of the policy, it will be added to the Policies section of the Council intranet site.

11.2 The policy will be shared with relevant Council teams on an annual basis as part of the annual call for applications.

12 Information Management

12. Any information generated by the application of the policy will be managed in accordance with the Council's Corporate Information Policy and supporting Procedures.

Appendix 1 – LEZ Surplus Income Application Form

LEZ Project Proposal 20xx/xx

| | | | |
|------------------|--|---------------|--|
| Project Name | | | |
| Author | | Date | |
| Approved by SMT? | | Date approved | |
| Approved by TPB? | | Date approved | |

1 Executive Summary

Describe the project and how it will contribute to the aims and outcomes of the Low Emission Zone (LEZ) and / or the Air Quality Action Plan (AQAP) (further detail on the AQAP can be found in Section 12):

What is/are the anticipated outcome(s) of this project?

2 Business Need

Why is the project needed? What triggered it?

What are the business drivers and the current business situation? What air quality objectives does it help deliver?

What are the risks to the Council if the project does not go ahead?

What kind of tangible measurable benefits will the project provide?

3 Options

Describe any of the currently identified options of how the project will be delivered (*Any project where an option appraisal has not been carried out will not be considered*).

4 Recommended Option for Approval

| |
|--|
| |
|--|

5 Whole Life Costs and Project Spend Profile

Outline the total costs of the project, also detail additional funding streams that will potentially contribute to this project

Detail future years where maintenance is expected to be required following completion of the project. All projects approved through the LEZ will be prioritised in applications for future maintenance although it will be up to Project Managers to apply for this when needed and will be dependent on sufficient funds being available within the LEZ budget.

This projected spend profile will be used to inform the Project Status Report if the application is successful. *(This should influence Key Milestones in Section 6)*

| Month (23/24) | Projected Spend (£) | Maintenance Requirement | Year | Projected Cost (£) |
|---|---------------------|-------------------------|------|--------------------|
| April | | | | |
| May | | | | |
| June | | | | |
| July | | | | |
| August | | | | |
| September | | | | |
| October | | | | |
| November | | | | |
| December | | | | |
| January | | | | |
| February | | | | |
| March | | | | |
| Total | | | | |
| Future Year Project Spend (if required) | Projected Spend (£) | | | |
| 2024/25 | | | | |
| 2025/26 | | | | |

Project Investment = £

Project Maintenance = £

Project Whole Life Cost (Investment + Maintenance)

| |
|---|
| £ |
|---|

6 Milestones and Timescales

Detail any planned or agreed dates, milestones, completion dates, required delivery deadlines or other time constraints on the project or the affected business areas. Add any additional rows as required.

The projected milestone dates will be used to inform the Project Status Report if the proposal is successful. Only milestones on the critical path should be included here, unless you feel they are beneficial to include. Please note if they are not critical path milestones.

| Milestone | Start Date | Due Date |
|-----------|------------|----------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

7 Dependencies

List those projects, initiatives, key decisions or other activities outside the control of the project that may influence the project or present a risk to its success.

8 Resources

Please define time, costs and resources that would be utilised in the progression of the project, including any internal teams.

| Resource | Activity | Timescale |
|----------|----------|-----------|
| | | |
| | | |
| | | |
| | | |

9 Risks

Detail any risks that may cause milestone slippage

10 Promotion and Communication

Detail any promotion and communication (media releases, website updates) that would be involved with this project. *(this should influence Key Milestones in Section 6)*

11 Scoring of Project Against Objectives

Please indicate (x) which priorities this proposal will benefit following the definitions below. If more than one is applicable, please choose the highest scoring one (scores in brackets).

| Priority | |
|--------------------------------------|--|
| Low Emission Zone (4) | |
| Walking, Wheeling and Cycling (3) | |
| Public Transport (2) | |
| Shared and Low Emission Vehicles (1) | |

Definitions

Low Emission Zone: Complementing or contributing to a reduction of harmful pollutants within the Low Emission Zone and / or City Centre Air Quality Management Area, including incentives, education and infrastructure.

Walking, Wheeling and Cycling: Improving or developing active travel including incentives, education and infrastructure for both recreational use and commuting.

Public Transport: Improving or developing the Public Transport network, including through incentives, services and infrastructure for bus and rail.

Shared and Low Emission Vehicles: Supporting and facilitating the take-up of shared (car sharing, Car Clubs) and / or low emission (particularly electric and hydrogen) vehicles.

12 Relevance of Project Against Council Priorities

Please tick what AQAP measures and LOIP outcomes this proposal contributes towards:

| AQAP Measures | |
|---|--|
| Transport Planning and Infrastructure | |
| Promoting Travel Alternatives | |
| Promoting Low Emission Transport | |
| Policy Guidance and Development Control | |
| Traffic Management | |
| Freight and Delivery Management | |
| Public Information | |

| LOIP Stretch Outcomes | |
|--|--|
| Economy | |
| No one will suffer due to poverty by 2026 | |
| 400 unemployed Aberdeen City residents supported into Fair Work by 2026 | |
| 500 Aberdeen City residents upskilled/ reskilled to enable them to move into, within and between economic opportunities as they arise by 2026 | |
| People (Children and Young People) | |
| 95% of children (0-5 years) will reach their expected developmental milestones by the time of their child health reviews by 2026. | |
| 90% of Children and young people will report that their experiences of mental health and wellbeing have been listened to by 2026. | |
| As corporate parents we will ensure 95% of care experienced children and young people will have the same levels of attainment in education, health and emotional wellbeing, and positive destinations as their peers by 2026 | |

| | |
|---|-----|
| 95% of children living in our priority localities will sustain a positive destination upon leaving school by 2026 | |
| Child friendly city where all decisions which impact on children and young people are informed by them by 2026 | |
| 30% fewer young people (under 18) charged with an offence by 2026 | |
| People (Adults) | |
| 25% fewer people receiving a first ever Court conviction and 2% fewer people reconvicted within one year by 2026 | |
| Healthy life expectancy (time lived in good health) is five years longer by 2026 | |
| Rate of harmful levels of alcohol consumption reduced by 4% and drug related deaths lower than Scotland by 2026 | |
| Addressing climate change by reducing Aberdeen's carbon emissions by at least 61% by 2026 and adapting to the impacts of our changing climate | |
| Increase sustainable travel: 38% of people walking and 5% of people cycling as main mode of travel by 2026 | |
| Addressing the nature crisis by protecting/ managing 26% of Aberdeen's area for nature by 2026 | |
| Additional Questions | Yes |
| Does this project contribute to Aberdeen's net zero vision ? | |
| Does this project contribute to the realisation of the Local Transport Strategy? | |
| Does this project contribute to the realisation of the City Centre Masterplan ? | |

13 Support Services Consulted

The minimum consultation period for Project Proposals is 10 working days unless the Programme Board Chair agrees there are exceptional circumstances that require a shorter turnaround time.

Note:

- In addition to noting comments from consulted services, it should also be noted below if there are any services on the list who were *not* consulted.
- It is mandatory to consult with Environmental Policy for all projects.

- At this early stage you should also be considering what impact implementing this proposal will have on employees, service users or other people who share characteristics protected by [The Equality Act 2010](#).

Note: There is a copy and paste version of the consultation list below which you can use for circulating your Project Proposal – [Support Services Consulted Circulation List](#)

| Service | Consultee | Comments | Date |
|--|---|----------|------|
| Resources | Chief Officer, Finance jbelford@aberdeencity.gov.uk | | |
| Resources | Chief Officer, Corporate Landlord stbooth@aberdeencity.gov.uk | | |
| Governance | Chief Officer, Governance (tbc) | | |
| Place | Chief Officer, Strategic Place Planning DDunne@aberdeencity.gov.uk | | |
| Place | Chief Officer, City Growth (tbc) | | |
| Operations | Chief Officer, Operations and Protective Services mareilly@aberdeencity.gov.uk | | |
| Operations (Facilities) | Andy Campbell, Facilities Manager AnCampbell@aberdeencity.gov.uk | | |
| PMO | PMO Programme Manager RMacTaggart@aberdeencity.gov.uk | | |
| Finance | Scott Paterson, Finance Partner spaterson@aberdeencity.gov.uk | | |
| Asset Management | Alastair Reid, Team Manager alareid@aberdeencity.gov.uk | | |
| Legal (Property/ Planning & Environment) | Ross Campbell roscampbell@aberdeencity.gov.uk Fiona Closs FCloss@aberdeencity.gov.uk Elena Plews EPLews@aberdeencity.gov.uk | | |
| Legal (Commercial & Procurement) | Michele Pittendreigh, Team Leader MPittendreigh@aberdeencity.gov.uk | | |
| Procurement | Boguslawa Symonowicz BSymonowicz@aberdeencity.gov.uk | | |
| ICT – Digital & Technology | Steve Robertson, Digital & Transformation Manager sterobertson@aberdeencity.gov.uk | | |
| Design – Public Buildings | Neil Esslemont, Team Leader nesslemont@aberdeencity.gov.uk | | |
| Grounds Maintenance | Steven Shaw, Environmental Manager stevens@aberdeencity.gov.uk | | |

| Service | Consultee | Comments | Date |
|--|--|----------|------|
| Communications | TBC | | |
| HR | Lindsay MacInnes, People & OD Manager lmacinn@aberdeencity.gov.uk | | |
| Transportation Strategy and Programmes | Joanna Murray, Team Leader joannamurray@aberdeencity.gov.uk | | |
| Place – TSAP | Nicola Laird, Senior Project Officer NLaird@aberdeencity.gov.uk | | |
| Roads Management | Stuart Allan, Team Leader Technical StuAllan@aberdeencity.gov.uk Vycki Ritson, Team Leader Engineering vritson@aberdeencity.gov.uk | | |
| Roads Projects | Alan McKay, Team Leader AlanMcKay@aberdeencity.gov.uk | | |
| Emergency Planning Officer | Fiona Mann FioMann@aberdeencity.gov.uk | | |

You can attach a link to your document to the list above but will need to attach a copy of your document to the consultees below as the link function doesn't work for generic addresses:

| Service | Consultee | Comments | Date |
|----------------------|---|----------|------|
| Estates | Property Estates Manager Estates@aberdeencity.gov.uk | | |
| Environmental Policy | EPConsultations@aberdeencity.gov.uk | | |
| Equalities | Baldeep McGarry/ Faiza Nacef equality_and_diversity@aberdeencity.gov.uk | | |
| Planning | Local Development Plan Team LDP@aberdeencity.gov.uk Development Management PI@aberdeencity.gov.uk | | |

| 14 Decision by Board | Date |
|-----------------------------------|------|
| Approval by Transportation Board. | |
| *Approved to: | |

* indicate approval given, as well as any additional stipulations.

15 Document Revision History

| Version | Reason | By | Date |
|---------|--------|----|------|
| | | | |
| | | | |
| | | | |