

Business, Planning and Transport Policy and Scrutiny Committee

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Title:	Lane Rental Schemes
Report of:	Kevin Goad, Director of City Highways
Cabinet Member Portfolio	Cabinet Member for City Highways
Wards Involved:	All
Policy Context:	Maintaining a World Class Westminster
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1. Executive Summary

This report looks at the possibility of the principle of Lane Rental being applied to streets managed by Westminster Council. It highlights the potential benefits and risks of such a change while highlighting the existing scheme operated by Transport for London.

2. Key Matters for the Committee's Consideration

1 - Would the Committee support the principle of a Lane Rental Scheme being implemented within Westminster Council's network? Are there any particular areas of concern that need further investigation or action?

2 - How does the Committee consider the balance between the needs of residents and the needs of the road-user can be achieved? Does Lane Rental pose any challenges that would need to be addressed in any potential Westminster Lane Rental Scheme?

3 - Would the Committee like to see any potential Westminster Lane Rental Scheme also apply to areas of high footfall which may not currently meet the thresholds for such a scheme?

3. Background

- 3.1 This report looks at the existing Lane Rental Scheme in operation on parts of Transport for London's road network. It also highlights potential opportunities to expand such a scheme to streets maintained by the City Council and looks to draw out thoughts on some of the potential benefits and challenges of such a change. A consultation by the Department for Transport on the extension of such schemes has closed with the responses by Authorities currently under consideration. The Committee is invited to make recommendations as to how the City Council should proceed in this regard.

What is Lane Rental?

- 3.2.1 Lane Rental is the process where organisations undertaking works on the highway pay to take up carriageway space. It can only be applied to the most sensitive parts of a road network and only at certain times of day. The legislated intention is that it is always possible to avoid the charge through certain behaviour or timing of work. As the charge is avoidable it should not be passed on to the end consumer in the form of higher bills or charges for services. However, additional charges may be made to customers requiring works on Lane Rental streets associated with completing the works in a manner to avoid excess charges (such as charging for more labour to complete the works in less days and therefore pay less Lane Rental).
- 3.2.2 If a scheme is in operation then Lane Rental Charges must apply to all works on the highway equally, meaning that the maintenance works undertaken by the local authority also may be liable for payment on the same terms as those undertaken by utilities.
- 3.2.3 Lane Rental is an extension of the widely adopted Permit Scheme powers. Permits, operated in Westminster since 2010, require utilities or Council contractors to apply for permission to work on the highway. While Council Officers cannot refuse permission to work (utilities retain their statutory rights to work in the highway) they can dictate timings or methodologies. Fees are paid for the processing of the Permits (at rates set by statute) but the charge has no mechanism to encourage prompt completion of works. Lane Rental, by being a daily charge, positively encourages the works to be completed as quickly as possible and can drive investment in new technology which would otherwise be uneconomically viable.
- 3.2.4 Two pilot schemes have been in operation since 2012. They are run by Kent County Council and Transport for London (TfL). This report will look at the TfL scheme due to the greater impact that this has on Westminster's streets.

TfL's Lane Rental Scheme

- 3.3.1 The Transport for London Lane Rental Scheme (TLRS) was first introduced on 11 June 2012. Following analysis and stakeholder consultation the TLRS areas were changed with the new areas taking force on 1 July 2014 and covering 56% of the TfL road network (TLRN), down from 57% originally. The TLRS is

designed to minimise disruption caused by roadworks and streetworks in specified traffic-sensitive locations by applying a daily charge for each day that the street is occupied by an activity promoter's works. The daily charge is not applied if the works take place outside traffic sensitive times providing all activity promoters with an incentive to change behaviour and adopt less disruptive practices

3.3.2 Charges are applied at £800 or £2,500 per day between certain times.

Charge Band	Type	Daily Charge	Typical Charging Times	
			Monday to Friday	Saturday and Sunday
1	Segment	£800	06:30-10:00 and 15:30-20:00	12:00-18:00
2	Segment	£2,500	06:30-22:00	12:00-18:00
3	Pinch point	£2,500	07:00-20:00	12:00-18:00

Source: TfL 2016/17 Monitoring Report

The TfL network within Westminster has sections of high, low and no charge rates. The individual streets are shown on maps in **Appendix 1**.

3.3.3 TfL can waive the charge for works during chargeable periods in certain situations:

- Collaborative working- where more than one company work together to reduce overall disruption.
- Using innovative technology
- Where there is no net loss to carriageway space – the traffic management or work space takes up the same footprint as an existing island or when an existing island has been removed in order to create adequate temporary working space
- Implementing future proofing methods to the road network – such as providing additional ducting and access chambers to reduce the number of future interventions on the network from utility providers
- Using extraordinary measures – where special provisions have been made to reduce congestion that are over and above normal practices

Between April 2016 and March 2017 a total of 187 waiver applications were submitted to TfL, with 81 per cent receiving approval (152).

3.3.4 Across London this scheme generates large amounts of charges that are paid to TfL. It should be noted that the largest payer of Lane Rental Charges in London is TfL itself.

Sector	No. of Works where Charges were Recovered	Number of Days	% Low Charges (£800/day)	% High/PP Charges (£2,500/day)	Total Charges Recovered	Average Charges per Work	% of Total Charges Recovered
TfL	135	2,973	15%	85%	£5,630,500	£41,707	47%
Gas	150	1,912	28%	72%	£3,008,600	£20,057	25%
Water	280	1,264	37%	63%	£1,756,600	£6,274	15%
Electric	129	626	34%	66%	£910,500	£7,058	8%
Telecoms	130	361	22%	78%	£618,600	£4,758	5%
Total	824	7,136			£11,924,800		100%

Source: TfL 2016/17 Monitoring Report

- 3.3.5 TfL can deduct reasonable operating costs from the income received. It cannot reimburse its own Lane Rental charges from income received from third-parties. The legislation establishing the pilot schemes in operation strictly limits how the additional income from charges is spent. Unlike other charges it cannot be spent on general maintenance or subsumed into wider Authority budgets but can only be spent on projects deems to mitigate the adverse effects of Streetworks. To ensure the money is correctly managed TfL set up a committee. The Lane Rental Governance Committee (LRGC) is formed of senior managers from TfL and utility companies who have responsibility for ensuring that the expenditure of surplus income generated from the TLRS is in accordance with DfT regulations. The LRGc meet quarterly to review requests for funding from the net proceeds, which must be used for purposes intended to reduce the disruption and other adverse effects caused by street works. Applications must also directly or indirectly benefit London.
- 3.3.6 In early 2017 Westminster Council, along with the City of London and TfL successfully applied for a joint bid for funding to cover additional monitoring and planning of out of hours works. This ensures that some of the charges paid by those disrupting the highway are being used to minimise the disruption caused by those working out of normal hours.
- 3.3.7 TfL strongly believe the Lane Rental scheme to be a success in terms of its impact on traffic flow across London. While it is generally seen that congestion has increased, often due to the demands for roadspace for pedestrians and cyclists reducing that available to vehicular transport, it seems that the impact of the TLRS has been to mitigate this. In TfL's latest full financial year report on their scheme they show that the TLRS has either facilitated slower declines in functionality for the road user or provided positive improvements when compared to their network not subject to the scheme. The summary of TfL's stated benefits and some of their statistics on its operation are included as **Appendix 2**.
- 3.3.8 The full latest copy of TfL's Monitoring Report April 2016- March 2017 (53 pages) is available here: <http://content.tfl.gov.uk/lane-rental-monitoring-report-apr-2016-mar-2017.pdf>. This provides comprehensive data on the impacts of their scheme in operation. It is not reproduced as an appendix here due to size considerations but Members of the Committee are invited to review the report.

Impact of TfL Lane Rental on Westminster Residents

- 3.4.1 As noted above the stated aims of TfL's scheme to reduce disruption and increase journey time reliability have broadly been met. TfL's reports also show an increase in collaborative working whereby more than one company works at the same time to reduce cumulative disruption. Officers support the concept of the scheme and believe it is a driver for good behavioural change by the industry.
- 3.4.2 However, potential negative impacts are present for Westminster residents. It should be noted that the TLRN enables works to take place on chargeable streets without charge if they are undertaken outside of chargeable hours. In practice this means that works at night or at weekends are not subject to the charge. While the traffic-impact rationale of such a position is clear there is the potential for conflict with the City Council's environmental policies regarding out-of-hours working. While TfL may be the Highway Authority for the TLRN the environmental powers remain with the City Council.
- 3.4.3 Prior to the setup of the scheme TfL met with Officers to agree a protocol where no permission to work out of hours should be given without first approval being granted by WCC Noise Team Officers. It was agreed that the City Council would be understanding of the network pressures on TfL, especially at certain key points on their network, but that no blanket approvals would be given and each application would need to be assessed on a case-by-case basis. In general, with a few notable errors over the years of operation, this process has worked well.
- 3.4.4 However, the nature of the TLRN means that there is always pressure to facilitate works out of hours and this makes this a constant topic of discussion between Officers, TfL, and utilities. Were Westminster not to have such a strong position on the rights of residents regarding avoidable noise disruption, and were Officers not so focused on supporting this, the TfL's Lane Rental Scheme would have created considerable extra noise disruption through extra out-of-hours works which would not have previously been economically viable. Without Lane Rental to offset the additional costs to contractors for working at weekends or at night (as opposed to normal hours) there would be far less pressure to undertake works at those times.
- 3.4.5 Working outside of normal working hours can lead to additional costs associated with materials, equipment and resource. Depending on how much work needs to be carried out outside of normal hours, contractors may find it difficult to secure enough resource to carry out the work as some staff may not want to work the unsociable hours.
- 3.4.6 There are also some concerns that the quality of highway reinstatements could decrease as a result of some works promoters rushing jobs to avoid paying more lane rental charges. In order to combat this increased supervision by the highway authorities could be required but this should be able to be funded out of the income generated by lane rental charges.

- 3.4.7 There is a possibility that some works promoters may prioritise other works rather than works that needed to be carried out on lane rental roads to maximise the amount of money they are able to spend on their assets. This may mean that instead of being pro-active and undertaking planned maintenance work on assets located in lane rental roads some works promoters may instead choose to take a reactive approach and only carry out work when absolutely necessary ie. when the works become urgent. This could lead to a longer term degradation of the pipes, cables and manhole covers seen on Lane Rental streets.

Extension of Lane Rental beyond TfL and Kent.

- 3.5.1 In September 2017 the Department for Transport (DfT) consulted on the continuation of the pilot schemes run by TfL and Kent CC, the potential extension to other Authorities, and an alternative measure to Lane Rental. **The full consultation pack is provided in the Background Papers.** This document also provides useful background legislative information regarding the principles of Lane Rental.

- 3.5.2 The options all consultees were asked to consider were:

Baseline Option (do nothing). This would mean the current schemes would end in March 2019 and no new schemes would be permitted. Permit schemes would be the main way that all road works were managed on all roads.

Option 1: Retaining lane rental as it currently exists but only in London and Kent. This would require a minor amendment to secondary legislation to remove the sunset clause.

Option 2: Roll-out lane rental to other local authority areas. This would allow other local authorities to operate lane rental schemes but on condition that certain other criteria were met, for example, a permit scheme was in operation. This could be on a limited basis or it could be deployed more widely. It would be for authorities to ask for approval from the Government for schemes.

Option 3: Using permit schemes to deliver the key objectives of lane rental, i.e. stricter control and planning of works on the busiest roads at the busiest times. This would involve amending permit schemes and adding a new 'Super Permit' for works on the most congested roads. This would use permitting, which applies to all works on all local roads, to implement the key policy aims of lane rental and would allow those 60% of permitting LHAs who operate permit schemes to vary their schemes and include this new level of permit without the need for any approval from the Government.

- 3.5.3 With the agreement of the Cabinet Member for City Highways, the Westminster Council response welcomed the opportunity to consider the potential for a Lane Rental Scheme to operate in Westminster but did not in any way commit the Council to such a scheme were powers to be granted by the DfT.

3.5.4 Officers replied supporting option 1 (to allow TfL and Kent to continue their schemes) and supporting option 2 whilst highlighting the risks or specific concerns.

3.5.5 Specific concerns raised were:

- Impact on residents of pressures to have more works out of hours. Given the Council's strong position on preventing out-of-hours disruption this could cause difficulties for the Council in showing that application of the regulations was fair and that charges were avoidable. If they become unavoidable, as permission to work out-of-hours is never given then the scheme potentially becomes non-compliant and contractors could pass costs on to customers. The Council would also need to demonstrate that refusal for out-of-hours works was not motivated by the desire to see more income generation in up-front fines.
- Restrictions on spending of charges received. The TfL experience shows that the regulatory restrictions on the use of money received in Lane Rental charges are very tight. They have built up a considerable balance that they cannot spend and cannot be written-back to general maintenance liabilities. Officers foresee this would be a problem for any Borough too. Administering the disbursement of the funding from the income pot is labour-intensive. The holding of multiple smaller sums of Lane Rental income across London would be cumbersome but any pooling of the income pot would have associated sovereignty challenges too. The Westminster response suggested that the restrictions be reduced to enable Authorities to also spend the money directly on measures to improve traffic flow or reduce disruption while also being able to invest in new technology or opportunities as appropriate.

3.5.6 Benefits of the current scheme that were highlighted were:

- Lane Rental is seen as the best way to ensure that there is a time pressure on works to get them completed promptly.
- As the charges can be waived where innovative technology that reduces total disruption is used it is seen as a way to make previously uneconomic investment in new ways of working attractive.
- It is seen as a driver for change and co-operation between those working on the highway. It encourages companies to work together and to work more closely with the Highway Authority.
- Daily charges are relatively simple to administer and while they can be a blunter tool than charging by the hour (which would enable closer management of disruptive works, it does not need so much administration and monitoring to be effective.

3.5.7 The Council response did not support Option 3 whereby "Super Permits" would be used instead of additional Lane Rental Schemes. The concept of Super Permits is that at certain locations susceptible to disruption a much higher Permit fee would be charged for works. It was the view articulated in the Westminster response that such a process would not encourage prompt

completion of works and would create additional administration for no benefit to the road-user.

- 3.5.8 While the DfT is still considering the consultation responses it was confirmed in December 2017 that the “sunset clause” would be removed to enable TfL and Kent CC to continue with their schemes. Option 1 has therefore been approved by the DFT. Options 2 and 3 remain to be determined.
- 3.5.9 It should be noted that any Westminster Lane Rental Scheme would only apply to a small amount of the City’s network. TfL could only justify application to 56% of their network and by its nature most of their streets are busier than most operated by WCC.
- 3.5.10 While the table in section 3.3.4 shows that the cost to TfL of charges for their own schemes is very high, it should not be assumed that the equivalent costs to WCC in terms of Lane Rental charges would be similar. These figures are for a pan-London scheme covering all of Greater London. The likely small footprint of any scheme were it to be approved would mean it very unlikely that the Council would need to find additional millions of pounds on top of costs of any maintenance costs. However, this also means that any income from third-parties would also be of a similar proportional size. Lane Rental schemes should not be looked upon as income generation.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact Jonathan Rowing x3127
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APPENDICES:

Appendix 1- TfL Lane Rental Maps for Westminster

<http://content.tfl.gov.uk/westminster-north-lane-rental-map.pdf>

<http://content.tfl.gov.uk/westminster-south-lane-rental-map.pdf>

Appendix 2- Summary of TfL's stated benefits of their scheme up to March 2017

Analysis has shown that for the period 1 April 2016 to 31 March 2017:

- 99 % of TfL works and 87 % of utility works taking place in TLRs segments avoided incurring a TLRs charge
- 1,679 days of lane rental were saved through early discussions with works promoters
- Between April 2016 and March 2017 the Lane Rental surplus funded 19 applications totalling £4,340,031 for roadworks congestion busting projects. Where it has been possible to calculate, the estimated social cost of delay saved through use of the funding is £37,673,107.

Compared to a baseline of 1 October 2010 to 30 September 2011:

- Average collaborative work sites per TfL period have increased from 16 to 47 (194%)
- Average number of days of disruption avoided per TfL period has increased from 110 to 141 (28%)
- There has been a 31 percentage point increase in planned utility works taking place overnight on TLRs segments since the scheme was implemented from 11 to 42%
- The total number of works completed within TLRs segments has decreased by 6% (1,309 works)
- Average 24hour vehicle flows on TLRs segments increased by 2% and by 4% on non-TLRs segments
- Average vehicle flows per lane in the TLRs are 19% higher than in non-TLRs segments
- Highway Authority (TfL) serious and severe disruption caused from planned works in TLRs segments fell by 62% (utility also decreased by 38%)
- The total number of hours of serious and severe disruption in TLRs segments has decreased by 195 hours (53%)
- Journey times and JTR saw deterioration in both TLRs and non-TLRs segments.
- Overall journey time deterioration has been worse in non-TLRs segments during AM, inter and overnight periods (up to 1.2% worse in the AM peak when compared to TLRs segments)
- JTR has deteriorated this year by -2% in the AM peak and -3% in the PM peak when compared to the 2010/11 baseline. Further analysis has revealed that 90% of the AM peak and 66% of the PM peak depreciation was attributed to the A406 North Circular Road, where there were two major schemes constructed and a series of vehicle breakdowns and collisions that were the cause of significant delays.
- It was found that within Major Work Impact Areas (MVIAs) the journey time deterioration was much more significant, and outside of MVIAs journey time increases in both TLRs and non-TLRs were very similar, which indicates a general deterioration of road network performance caused from increases in demand and the knock on effect of the huge investment programme taking place in London.
- Frustrations associated with 'Repeated roadworks on the same stretch of road within the same year' have continued to reduce (down 22 percentage points since 2011). It

is reasonable to assume that the implementation of TLRS has had a positive influence on these results

- The other greatest improvements in customer satisfaction between 2011 and 2016 were reductions in frustrations associated with 'Seeing streets partially closed, but no-one working there', 'Takes too long to carry out the work' and 'Lack of explanation about why roadworks are being carried out' (19, 18 and 18 percentage points respectively)

BACKGROUND PAPERS

Paper 1- DfT consultation paper on the future of Lane Rental as per section 3.5

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/640876/the-future-of-lane-rental.pdf