

	<b>Committee Report: General Purposes</b>
<b>Date:</b>	24 <sup>th</sup> October 2007
<b>Subject:</b>	10 <sup>th</sup> London Local Authorities Bill

## Summary

The City Council has received a request from London Councils on behalf of all the other London Boroughs to act as lead borough to promote a General Powers Bill in the next session of Parliament. This report recommends authorisation of the necessary formalities required to promote such legislation, sets out in general terms the provisions that are being considered for inclusion in the Bill, and gives details of the likely financial implications.

## Recommendations

1. That the Committee recommends to the Council that it resolves:-
2. That in the judgment of the Council of City of Westminster it is expedient to promote a Bill or Bills for effecting all or some of the purposes mentioned in Appendix 1 hereto and to enact any additional, supplemental and consequential provisions that may appear to be necessary or convenient and that such Bill or Bills be promoted accordingly by the Council.
3. That the Director of Legal and Administrative Services take all necessary steps to carry the foregoing resolutions into effect and that the common seal be affixed to the Petition for the Bill and to any other necessary documents.
4. That the Director of Legal and Administrative Services be authorised to amend or delete provisions as necessary subject, in the case of provisions proposed by the City Council, to consultation with the relevant Cabinet Member before a provision is deleted or amended in a way which fundamentally alters its effect.



City of Westminster

# Committee report

Date:

**24<sup>th</sup> October 2007**

Classification:

**For General Release**

Title of Report:

**10<sup>th</sup> London Local Authorities Bill**

Report of:

**The Director of Legal and Administrative Services**

Wards involved:

**All**

Wards involved:

**All**

Policy context:

**To acquire additional legislative powers to assist in the furtherance of the Council's One City programme**

Financial summary:

**The cost of the Bill to the Council is approximately £15,000, which can be met from existing budgets**

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## **1. Summary of this Report**

- 1.1 The City Council has received a request from London Councils on behalf of all the other London Boroughs to act as lead borough to promote a General Powers Bill in the next session of Parliament. This report recommends authorisation of the necessary formalities required to promote such legislation, sets out in general terms the provisions that are being considered for inclusion in the Bill, and gives details of the likely financial implications.

## **2. Recommendations**

- 2.1 That the Committee recommends to the Council that it resolves:-

That in the judgment of the Council of City of Westminster it is expedient to promote a Bill or Bills for effecting all or some of the purposes mentioned in Appendix 1 hereto and to enact any additional, supplemental and consequential provisions that may appear to be necessary or convenient and that such Bill or Bills be promoted accordingly by the Council.

- 2.2 That the Director of Legal and Administrative Services take all necessary steps to carry the foregoing resolution into effect and that the common seal be affixed to the Petition for the Bill and to any other necessary documents.

- 2.3 That the Director of Legal and Administrative Services be authorised to amend or delete provisions as necessary subject, in the case of provisions proposed by the City Council, to consultation with the relevant Cabinet Member before a provision is deleted or amended in a way which fundamentally alters its effect.

## **3. Background to this Report**

- 3.1 Each year the London Local Authorities are consulted and asked whether they wish to put forward any items for inclusion in a London Local Authorities Bill. This year, following that consultation, London Councils decided that a private Bill should be promoted this November. The City Council has been approached to act as the lead borough for such promotion. Indeed, the City Council has taken such a role in respect of each of the previous London Local Authorities Bills. It is likely that there will be more than one Bill promoted because, as on previous occasions, there are subjects that are more suitable for a Bill to be promoted jointly by the City Council and Transport for London. Also, if the shopping bag levy proposals are to go forward, they may also be contained in a separate Bill.
- 3.2 It is not possible at this stage to attach a draft Bill to this report although the Appendix to this report sets out the provisions sought on behalf of all the London Boroughs. It should be stressed that drafting and inter-borough meetings are likely to be on going up to deposit of the Bill in Parliament on 27<sup>th</sup> November and it is likely that some of the proposals will not be included in the final Bill. However, paragraph 4 sets out a summary of the particular provisions proposed by the City Council, which are expected to be so included.

#### **4. Westminster Proposals to be included in the 10<sup>th</sup> London Local Authorities Bill**

- 4.1 Bicycle rickshaws or pedicabs – power to enforce parking and moving traffic offences.
- 4.2 Builder's skips – decriminalise contraventions; make skip companies liable for breaches and require lights to be incorporated into the structure of skips.
- 4.3 Sex establishments – amend the service provisions to require service of summonses and notices by ordinary post as opposed to recorded delivery.
- 4.4 Unlicensed street trading – power to dispose of seized goods and equipment after payment of a fixed penalty or failure to return notice confirming that criminal proceedings will be contested.
- 4.5 Distribution of free food (soup-runs) – power to designate areas within which the distribution of free food would be prohibited.

#### **5. Powers not required or not supported**

- 5.1 In the event of the Council being of the view that it would not wish to have certain of the proposed powers, the Bill could be drafted so as to disapply such provisions in Westminster. Alternatively, they could be made subject to an adoption provision requiring each borough to pass a resolution applying the provisions to its area in order to bring them into force. In the event that certain powers are not required or supported officers would recommend making those provisions subject to an adoption provision. This would enable the powers to be brought into force in the event of a change of view.

#### **6. Legal implications**

- 6.1 Some of the provisions currently suggested (including those for the benefit of the City Council) are quite controversial, and the private Bill procedure gives the Government and other interests significant power to block provisions that they are opposed to. There is, therefore, no guarantee that all the provisions to be contained in the Bill will succeed. Members, therefore, need to be aware that there is a risk that a number of the provisions included in the Bill could be lost during its Parliamentary passage.

#### **7. Staffing implications**

- 7.1 There are no staffing implications

#### **8. Human Rights Act 1998**

- 8.1 In accordance with Parliamentary procedures, Counsel's advice confirming that its provisions are compatible with the Human Rights Act 1998 will be deposited in Parliament and a Government Minister will be required to provide parliament with a statement on such in due course.

## **9. Financial Implications**

- 9.1 The costs of promotion are difficult to quantify in advance as much depends on how quickly the legislation passes through Parliament and the extent of any opposition. However, experience of previous promotions indicates that costs are likely to be in the region of £15,000 per borough. This cost is likely to be spread over financial years 2007/8 and 2008/9. This sum can be met from existing budgetary provision.

## **10. Reasons for decision**

- 10.1 To provide additional and improved powers to assist in the furtherance of the Council's One City programme, and the objectives of other London Boroughs.

If you have any queries about this report or wish to inspect any of the background papers please contact Gary Blackwell on 0207 641 2718 (Fax 0207 641 2251) e-mail address: [gblackwell@westminster.gov.uk](mailto:gblackwell@westminster.gov.uk) or Peter Large on 0207 641-2717 (Fax 020 7641 3325) e-mail address: [plarge@westminster.gov.uk](mailto:plarge@westminster.gov.uk)

### **Background Papers**

The document referred to in compiling the report is:

Report to London Council's Leaders' Committee on 10<sup>th</sup> London Local Authorities Bill, dated 10<sup>th</sup> July 2007.

## **Appendix 1 - Proposals for a London Local Authorities Bill (and if necessary, other private bills) for Deposit in November 2007**

### **Penalty Charges for Environmental Offences**

#### *Problem*

London borough councils are authorised to give persons fixed penalty notices for a range of offences. Under Schedule 2 of the London Local Authorities Act 2004, for instance, such notices can be imposed for displaying advertisements in contravention of regulations, contravening or failing to comply with a requirement or prohibition imposed by an abatement notice, or resisting or obstructing an authorised officer. Under the Clean Neighbourhoods and Environment Act 2005, fixed penalty notices can be given for offences relating to littering, and dog control (including failure to remove dog faeces).

There remains little incentive for local authorities to pursue criminal cases through the magistrates' courts where, as is often the case, fixed penalties are not paid. The cost of taking cases to court is often not met by the costs subsequently recovered and penalties are inconsistent and often very low. In addition, the boroughs do not keep the fines imposed by the courts, as they could the fixed penalties if they were paid. This means that the borough councils face a financial burden.

#### *Solution*

It is proposed that a limited number of offences relating to environmental crime be decriminalised and subject to a regime of penalty charges similar to that used for parking and moving traffic contraventions in London. Such a system provides uniformity in the level of penalty charge, an efficient adjudication system for appeals and reduces the burden on the criminal courts.

The system for the administration of penalty charges that is set out in Part 5 of the London Local Authorities Act 2007 would be utilised and recipients would be able to make representations and lodge appeals to adjudicators on defined grounds.

Offences which the councils are minded to make subject to the provisions are littering and dog-related offences in the Clean Neighbourhoods Act 2005 (including failure to remove faeces) and other dog-related offences.

### **Shopping Bag Control**

#### *Problem*

The free distribution of carrier bags by retailers generates waste, much of which is incapable of being recycled nor is it biodegradable. The public profile of the problem has risen but despite that and attempts by some retailers to introduce voluntary schemes, the distribution and discarding of bags shows little sign of reducing significantly.

#### *Solution*

A number of alternatives are under consideration. First, to introduce a levy (the current proposal being 10p) on every shopping bag given by a retailer. The retailer would be responsible for charging the levy and it would be collected by the borough council and could be used for environmental purposes. Secondly, an outright ban on free bags, and thirdly a requirement to charge for bags, leaving it for the retailer to decide what to do with the income.

## **Chewing gum levy**

### *Problem*

Cleaning the streets of chewing gum deposits produces a considerable drain upon London borough councils' resources. Councils which carry out regular cleaning can spend many thousands of pounds each year removing chewing gum deposits from streets: the cost of the operation to clean Oxford Street, for instance, runs into six figures each year. The deposits on the pavement are unsightly and cause blight to the local amenity. Pavements and walkways are increasingly covered by the deposits, and new walkways, such as the Golden Jubilee Bridges over the River Thames, have now begun to be affected.

The problem persists despite the fact that Chewing gum was explicitly defined as "litter" under the Clean Neighbourhoods and Environment Act 2005. The offence of dropping litter can lead to a maximum fine of £2,500 after summary conviction, and it is possible for local authorities to offer a person found to have dropped litter a fixed penalty notice as an alternative (for a first offence).

### *Solution*

London borough councils are proposing a levy to be imposed upon the sale of chewing gum in London to be used to defray the cost of cleaning up deposited gum. The levy would be by way of a sum recovered from each packet of chewing gum sold to the public. A similar proposal for a levy on the provision of shopping bags by retailers is being proposed by the councils and consultation on that is underway separately.

The levy would be administered by the borough councils, and it would be paid to them by retailers and ring fenced for uses which would be defined in the bill or in secondary legislation. It is likely that such uses would include removal of gum from the streets.

## **Street Litter Control Notices**

### *Problem*

Smoking related litter, comprising cigarette ends, matches, and cigarette boxes, is now considered to be one of the predominant sources of litter on the street. Given the introduction of the prohibition of smoking in places of work the amount of litter arising from smoking outside on pavements and other public open places is likely to increase.

The increase in smoking related litter is leading to increased costs for local authorities in street cleaning.

Smoking litter outside most commercial buildings is capable of being controlled by the making of street litter control notices, but the Secretary of State is restricted by the terms of Section 94 of the Environmental Protection Act 1990 as to the type of premises which he can designate as being subject to notices. Non-commercial buildings, including most public sector buildings, are not included.

### *Solution*

It is proposed to extend the range of premises for which a street litter control notice can be issued in London. Section 94 of the Environmental Protection Act 1990 would be amended to allow street litter control notices to be issued in respect of any non-domestic premises.

## **Charges for the use of public toilets**

### *Problem*

The cost of providing public toilets falls mainly on London borough councils. Public toilets have to be kept to high standards of maintenance and cleanliness, so that they remain hygienic at all times, and that they are not subject to damage caused by vandalism.

Currently London borough councils are precluded from charging for the use of men's urinals (although not closets) under the Public Health Act 1936. There are also prohibitions on the installation of public turnstiles in the vicinity of local authority conveniences, by virtue of the Public Lavatories (Turnstiles) Act 1963. Although they can make a charge for cubicles, councils generally do not do so because of issues around sex discrimination.

Toilets in other public areas, such as at rail or bus stations, are not subject to the same legislation and the operators can make a charge for their use.

### *Solution*

It is proposed that London borough councils should be permitted to charge for the use of public urinals so as to allow them to recover the cost of maintaining them and other public toilets. One way of doing this would be through the use of turnstiles, similar to those at rail and bus stations. The two pieces of legislation mentioned above (Public Health Act 1936 and Public Lavatories (Turnstiles) Act 1963) would therefore need to be amended in their application to London.

## **Regulating tables and chairs and other items on the highway**

### *Problem*

There is increased use by cafes and restaurants of tables and chairs on the highway. The prohibition on smoking in enclosed places of work will no doubt lead to more of such facilities being requested for those eating and drinking outdoors.

Currently local authorities, when making a charge for a permission under Section 115E of the Highways Act 1980, cannot take into account any additional costs which may fall on them as a result of the permission being granted, such as costs of street cleaning, highway maintenance and enforcement. Neither can they take into account the amount of the highway to be taken up by the tables and chairs. So there is no difference in the charges that can be made for a business which occupies only a small area of the highway, and a business which uses a large area.

Some councils recover charges for the use of the highway by restaurants and other food outlets by requiring the proprietor to obtain a street trading licence under the London Local Authorities Act 1990 or, in Westminster, the City of Westminster Act 1999. Charges can be recovered under those Acts for street cleaning and enforcement, but doubts have been raised about whether the size of the area of the street used can be taken into account.

### *Solution*

It is proposed to introduce measures to allow London boroughs to take account of the area of the highway that is used when setting charges for S.115E permissions or street trading licences for tables and chairs on the highway. It is proposed that Section 115F of the Highways Act 1980 would be amended in its application to London so that matters such as additional street cleaning can be taken into account when granting S.115E permissions.

## **Houses in Multiple Occupation: Management Notices**

### *Problem*

Under section 234 of the Housing Act 2004, the Secretary of State can make regulations providing for duties to be imposed relating to the management of a House in Multiple Occupation (HMO) and regulations are in force (the Management of Houses in Multiple Occupation (England) Regulations 2006). There are no powers for London borough councils to require remedial measures to be carried out in respect of any failure to comply with these duties. As a result, HMOs can fall into a state of disrepair.

Previously, the councils were able to make similar such requirements under sections 372 to 375 of the Housing Act 1985, but those provisions were repealed by the Housing Act 2004.

### *Solution*

It is proposed that London borough councils as local housing authorities should be given powers to require remedial measures to be carried out in respect of any breach of a management duty as regards HMOs. The council would be able to serve on the person managing the HMO a notice specifying measures which would be required to be carried out. In the event that the identity of the manager of the house in multiple occupation cannot be ascertained, the notice would be delivered to a person on the premises, requiring the person managing the property to carry out such works.

Dates would be set by which time the works would have to be carried out. There would be a right of appeal against a notice on certain grounds, such as error in relation to the notice, or that the works specified in the notice were unjustified.

In the event that the works specified in the notice were not carried out in accordance with the notice, it is also proposed to permit the council to carry out the works and to recover the costs of doing so from the person managing the HMO.

## **Display of Food Premises Inspection Notices**

### *Problem*

European legislation makes provision about the registration of premises which are used, or are proposed to be used for a food business. Local authorities are responsible for registering and inspecting the premises at which the food is sold, or prepared. The process is designed to ensure that the food prepared on or sold in the particular premises is fit for human consumption. However, there is no requirement on food premises to display recent inspection notices or summaries of notices on the premises for customers to see. Voluntary schemes are being run by London borough councils in conjunction with the Food Standards Agency, but there is no obligation to display notices and it is feared that the worst offenders are the least likely to do so.

### *Solution*

It is proposed to impose a duty on the proprietor of food premises such as restaurants, cafes, snack bars, hotels, pubs, guest houses and food retail outlets, to display a copy of the most recent food inspection notice provided by the borough council (or more likely a summary of it, with, for example, a star rating), at each entrance to the premises, or, if there is no entrance for customers, the place where food is served. It would be an offence to fail to display such a notice, or to alter or forge the displayed information.

## **Social Club Premises**

### *Problem*

There is concern that there is insufficient control over “member only” clubs, often located in premises formerly used as retail premises, as a result of which they are becoming increasingly used for unlawful activities either on or off the premises or give rise to nuisance. London borough councils are concerned that there should be proper management controls for such “member only” clubs, to ensure that they do not become focal points in a particular neighbourhood for crime and anti-social behaviour.

### *Solution*

It is proposed to set up a system of registration of social club premises. “Social club premises” would be defined, and there would be exemptions, for example, for formally constituted sports or social clubs and for premises which are licensed under other regimes, such as premises with premises’ licences and club premises certificates under the Licensing Act 2003.

It is also proposed to set up a system of closure orders for social club premises in areas which are experiencing disorder. The system would be similar to provisions contained in the Licensing Act 2003 as regards premises with a premises licence.

## **City of Westminster Act 1996**

### *Problem*

Amendments are required to the City of Westminster Act 1996 (sex establishment legislation) to correct a typographical error and to alter the methods by which notices under the Act can be served.

### *Solution*

Section 8 (Service of notices) would be amended to enable the service of notices under the Act by ordinary post.

## **Management of street markets**

### *Problem*

Local borough councils are responsible for authorising most street markets in London (Charter markets fall into a different category). It is proposed that management responsibilities relating to street markets that are authorised under the London Local Authorities Act 1990 and City of Westminster Act 1999 should be able to be capable of being delegated within an agreed local framework to third parties. Similar provisions could be made in relation to the delegation of functions under Part III of the Food Act 1984.

### *Solution*

Options under consideration are –

- allowing third parties to exercise councils' powers in granting, varying, renewing and revoking licences in street markets and carrying on enforcement activities
- Allowing a more limited delegation of powers, ensuring that licensing activities and enforcement remain under the control of the council
- Giving specific powers to delegate functions under Part III of the Food Act 1984

## **Street trading in Westminster - Disposal of seized goods and equipment**

### *Problem*

Westminster City Council have power to seize items used in unlawful street trading. Those powers are used successfully on many occasions. However, the council faces a real problem in that it has been so successful, particularly in seizing hot dog trolleys, that it has to spend large sums on storing the trolleys in warehouses before

being able to dispose to them. Rarely, if ever, are criminal proceedings contested or is the identity and address of the trader established with any certainty.

Also, the council's officers have no powers to seize until they suspect that a street trading offence has been committed. Hot dog trolleys are brought into the City in groups, put on the highway and then taken away by the individual traders to the location from which they trade.

### *Solution*

First, to deal with the latter problem, it is proposed that Westminster City Council officers should have powers to seize receptacles and equipment which they suspect are intended to be used for unlawful street trading. The powers would be restricted to cases involving the proposed sale of refreshments.

It is also proposed to permit Westminster City Council to dispose of seized items summarily in certain circumstances. First, it could be done if a fixed penalty is paid in respect of a street trading offence. Secondly, it could be done after a certain period of time, if by then the council have not been furnished with certain detailed information by the person from whom the items were seized. There would be prescribed forms which the council could give to that person on seizure. The person could then choose whether to complete the form, advising of his name and address and his intentions as to whether or not he intended to contest any criminal proceedings arising from the seizure of such items (assuming he does not pay the fixed penalty) or, in the case of items seized under the new powers as mentioned above in relation to items involved in food trading, whether he required the council to seek a disposal order from the courts. In the event that the person does not return the forms, or provides incorrect or false information relating to his identity or indicates that he does not intend to contest the proceedings (but also fails to pay the fixed penalty), the City Council would be able to dispose of the property.

## **Distribution of free refreshments**

### *Problem*

Free refreshments and food are regularly distributed on public land, particularly by organisations wishing to assist the homeless. The unfettered distribution of free food and refreshments causes nuisance to occupiers of premises, often residential premises, in the vicinity of such land.

### *Solution*

It is proposed to prohibit the distribution of free refreshments on land designated by a London borough council. It would also be an offence to cause another person to distribute such refreshments. To be designated, land would have to be in the open air, and open to public access.

Unlawful distribution of free food would be an offence, and would be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Exemptions would be included, for example, the distribution of refreshments to people taking part in sporting events or giving out free samples outside retail premises.

## **Street Trading – Internet sales**

### *Problem*

London borough councils are concerned that clarification is needed about the definition of street trading in relation to sales on the internet. It is not clear, for instance, if a vehicle which is parked on the street without any indication that the vehicle is for sale but is offered for sale on the internet would fall under the remit of street trading legislation.

### *Solution*

The London Local Authorities Act 1990 and the City of Westminster Act 1999 would be further amended so as to clarify that vehicles that are for sale in the course of a business and which are parked on the street (whether or not an indication is given that the vehicle is for sale) fall within the street trading regime.

## **Control of items placed on the highway**

### *Problem*

Pedestrian flows can be adversely affected and traffic congestion and delays can be caused by items being placed in the highway. They can be unsightly and can cause unforeseen obstructions particularly to the blind and partially sighted.

Section 149 of the Highways Act 1980 gives powers to highway authorities to remove, on notice, things placed on the highway that cause a nuisance. They can also remove things without notice if there is a danger to users of the highway. The authority can recover their expenses of removal and make a complaint to a magistrates' court for a disposal order. The procedure is cumbersome particularly in the case of nuisances, and does not enable problems to be dealt with quickly.

### *Solution*

The solution proposed is to introduce new powers of removal and dispose of items deposited on the highway. The Bill would enable officers of the highway authority to remove items if they believe that it should be done for the good management of the highway or for the purpose of performing any of the functions of the authority. The officer would be required to give a notice at the time of removal to the person who he believed deposited it, giving that person the opportunity to return the notice, requiring the authority to seek a disposal order in the magistrates' court in respect of the object. If he cannot identify that person then he must affix a notice in the vicinity of the place from where the item was removed. If the notice is not returned stating that requirement within a certain period, then the council would be able to dispose of the item themselves and recover the costs of so doing. If it is returned then the authority would be obliged to seek a disposal order.

If items are placed on the highway in pursuance of a statutory right, licence consent or permission then they would not be covered by the proposed legislation. Statutory undertakers would be exempted.

## **Attachment of street lamps and signs to buildings**

### *Problem*

The objective is to reduce street clutter. The Corporation of London currently enjoys wide powers under Section 53 of the City of London (Various Powers) Act 1900 and Section 75 of the Road Traffic Regulation Act 1984 to attach street lights, and traffic signs to buildings. Similar powers enjoyed by other authorities in London under section 45 of the Public Health Act 1961 and section 74 of the Road Traffic Regulation Act 1984 are more restrictive, in that the consent of the owner of the building is required.

### *Solution*

It is proposed that similar powers currently enjoyed by the City of London to affix street lights and traffic signs onto buildings without the consent of the owner should be extended to other London local authorities. Consent would still be required from statutory undertakers in respect of their operational land.

## **Damage to highway by developers**

### *Problem*

Damage is frequently caused to footways and streets by developers' vehicles when construction works are carried out.

Currently local planning authorities cannot impose a requirement for financial contributions under planning conditions, and highway authorities can only recover the cost of damage caused to the footway by developers.

### *Solution*

Local planning authorities in London would be given powers to impose conditions on planning permissions. They could require a developer to pay a deposit prior to the commencement of development in respect of damage reasonably expected to be caused to the highway by the development.

It is also proposed to bring in a power similar to section 133 of the Highways Act 1980 to enable highway authorities in London to recover the cost of rectifying damage caused to any part of the highway caused as a result of works carried out adjacent to the highway.

## **Builders' skips**

### *Problem*

The rules relating to the placing of skips on the highway are set out in the Highways Act 1980. There is, however, frequent non-compliance particularly in relation to the lighting and covering of skips. Highway authorities find it difficult to secure

compliance with the rules and often have to take steps at their own expense to secure the safety of skips.

### *Solution*

It is proposed to decriminalise offences relating to the placing of skips on the highway, and to introduce a penalty charge system instead. The Secretary of State would also be empowered to make regulations imposing requirements on the construction of skips as regards the provision of lights and covering apparatus.

It is also proposed that the owner (and not the hirer) of the skip would be liable for penalty charges under the decriminalised regime.

## **Special events: Recovery of traffic management and street cleansing costs**

### *Problem*

The cost of managing traffic (which falls on the councils and TfL) and cleansing streets (which falls on the councils) for special events such as football matches, is considerable. The authorities consider that those should be recoverable from those who are organising events or whose activities lead to the requirement for streets to be managed prior to and during events, and for street cleansing afterwards.

While recovery of costs for some events is likely to be covered by the Licensing Act 2003, the recovery of costs, for example, arising from sporting events would not be possible, as a stadium's safety certificate only covers activities inside the ground. It would also be difficult for councils to recover the costs arising from other venues or events which do not need a licence under the Licensing Act.

### *Solution*

Powers would be given to the councils and TfL to recover the costs of additional traffic management and street cleansing from those responsible for special events.

## **Advanced Stopping Areas for Cyclists**

### *Problem*

Advanced stopping areas are areas reserved for cyclists at traffic lights in front of the stop line for motor vehicles. They are there for the safety of cyclists. They are frequently entered unlawfully by other traffic crossing the first stop line at the lights. This impedes the use of the stopping area for cyclists, and is potentially dangerous. It is a criminal offence for a motor vehicle to fail to comply with an advanced stopping area at a red light, but very little enforcement is carried out by the police.

### *Solution*

It is proposed to enable the partial decriminalisation of the offence of motor vehicles failing to stop at the first stop line at advanced stopping areas for cyclists and of driving on the cycle lanes that feed them. The provisions would also set out circumstances when the crossing of the first stop line by a cyclist would not be regarded as an offence (ie when the feeder cycle lane is obstructed or there is no feeder lane).

This could be done by amending the London Local Authorities Act 2003 and by enabling the Secretary of State to decriminalise the offence under the Traffic Management Act 2004. It is not intended to remove the power of the police to prosecute for the offence, given that it is an endorseable offence and the proposals would contain safeguards against double jeopardy. However, consideration is also being given to the proposal that a mechanism should be put in place allowing for the endorsement of the licence of the driver in cases where civil enforcement action has been taken by the councils.

## **Driving with hand-held mobile telephone**

### *Problem*

Driving with a hand-held mobile telephone or other device is an offence under the Road Vehicles (Construction and Use) Regulations. Increases to the level of fines and compulsory endorsement for the offence have been introduced in the Road Safety Act 2006. Nevertheless, mobile telephones remain in use by drivers, causing danger to themselves and to other road users and pedestrians, and enforcement is low.

### *Solution*

Yet to be decided but will involve enhancement of powers of TfL and boroughs' powers to assist in prosecutions.

## **Abnormal load enforcement**

### *Problem*

Responsibility for the planning of the movement of abnormal loads around London, together with enforcement of the construction and use regulations as they relate to abnormal loads, is currently carried out by the police. It is likely that the responsibility for the planning of the movement of abnormal loads will be given to Transport for London in the future.

Little enforcement is undertaken by the police in relation to breaches of the regulations, and this is a matter of concern, particularly for TfL.

### *Solution*

The change in the responsibility for the movement of abnormal loads should be reflected in the enforcement of the regulations. It is therefore proposed that responsibility for dealing with contraventions of the regulations should become the responsibility of Transport for London and the London boroughs under a decriminalised regime.

## **Gated roads**

### *Problem*

Traffic authorities in London are authorised to place barriers on or over the highway where access to a street is restricted by a traffic regulation order. Whilst it is an

offence to breach the traffic regulation order, it is not an offence for a person to raise or interfere with such barriers.

### *Solution*

It is proposed to make it an offence to interfere with a barrier which a traffic authority has lawfully placed upon or over a highway.

## **Cycling on the footway: fixed penalties**

### *Problem*

Cyclists using the footway instead of the carriageway can cause danger to pedestrians. It is an offence to cycle on the footway and it is a fixed penalty offence. Fixed penalties can be given by the police and police community support officers. They can also be given by an accredited person under a community safety accreditation scheme. The current level of fixed penalty is £30.00. It is considered that this is not a serious enough deterrent or punishment in the more serious cases, particularly where the footway is heavily used by pedestrians.

Only the Secretary of State has the power to fix the level of penalty under section 53 of the Road Traffic Offenders Act 1998.

### *Solution*

It is proposed that powers be given to traffic authorities to set fixed penalties for the offence of cycling on the footway in areas where local authority employees have powers under a community safety accreditation scheme to hand out fixed penalty notices. Different levels could be set for different areas to reflect the seriousness of the offence in the location where the offence has occurred. The local traffic authority is better placed to assess the traffic conditions in particular areas than the Secretary of State may be.

## **Pedicabs**

### *Problem*

It is difficult for London authorities to take effective enforcement action in respect of contraventions of road traffic law by riders of pedicabs. This is because it is difficult to identify who is responsible, caused mainly by the fact that there is no requirement for pedicabs to be identified by any plate similar to a Hackney carriage licence plate or a registration plate issued by DVLA and there is no statutory definition of the owner of a pedicab.

Also, some road traffic laws do not apply to pedicabs because they are not vehicles. For example the footway parking provisions of section 15 of the Greater London Council (General Powers) Act 1974 do not apply to pedicabs.

### *Solution*

Transport for London are currently taking a case to the Administrative Court on the point of whether a pedicab is licensable as a Hackney carriage. If the outcome is

favourable to TfL, then pedicabs which ply for hire will become licensable and will have to carry a plate with an identifiable number.

It is proposed that there should be a presumption, for the purpose of various pieces of road traffic legislation, that if a pedicab is licensed, the owner of the pedicab is the person in whose name the pedicab is licensed at the time. This will enable more effective road traffic enforcement under decriminalised road traffic law.

It is also proposed to extend the scope of section 15 of the Greater London Council (General Powers) Act 1974 to include pedicabs, therefore prohibiting the parking of pedicabs on the footway in London except where authorised. It is also proposed to extend the decriminalised moving traffic contraventions regime in Part 2 of the London Local Authorities and Transport for London Act 2003 to pedicabs.

It is also proposed to require the authority responsible for the licensing of pedicabs to make available the name and address of the person whose name a particular pedicab is licensed, if requested by another traffic authority.

It is proposed to provide a legal definition of pedicab, and to incorporate the definition of pedicab into several pieces of legislation.

## **Charging points for electric vehicles**

### *Problem*

Highway authorities are permitted to carry out works and place objects and structures on a highway under Part VIIA of the Highways Act 1980 for the provision of a service for the benefit of the public, and they can permit others to do so. They are not able to do so if the service will result in the production of income unless they have the consent of those owning properties which front on to the highway.

There is likely to be increased use of electric vehicles due to the increased focus on reducing pollution and emissions which are harmful to the environment. There will need to be provision of apparatus to charge up such vehicles, with easy access to the highway. It would be desirable for charging points to be located on the highway. There would need to be clear powers for local authorities to position them on the highway and to charge for their use and to authorise others to do so.

### *Solution*

It is proposed to permit London authorities to provide and operate charging apparatus for electrically powered motor vehicles on the highway without the need for the consent of the frontager.

This proposed power is to cater for an expected increase in the use of electrical vehicles in London. Consultees are invited to comment on the introduction of this power. They are also invited to comment upon the impact of installing such apparatus on the highway, the impacts upon the local amenity, and to consider other aspects, such as the prevention of damage to or theft from charging points.