



City of Westminster Cabinet Member Report

Meeting or Decision Maker:	The Deputy Leader and Cabinet Member for Environment and City Management
Date:	18/12/2019
Classification:	For General Release
Title:	The Greater London Dockless Vehicle Hire Byelaw
Wards Affected:	All Wards
City for All	This decision contributes to the City for All initiative by providing a regulated approach in managing the growing sector of dockless hire schemes in the City. This will provide alternative, green and healthy transport modes for people in Westminster without compromising the safety of our streets.
Key Decision:	This report is a not a key decision
Financial Summary:	n/a
Report of:	Executive Director for City Management and Communities

1. Executive Summary

- 1.1 This report (i) provides the Cabinet Member with an update on the development of a pan London byelaw which, if enacted, would enable all London Boroughs and TfL (in respect to the strategic Transport for London Road Network - TLRN) to provide enhanced control and enforcement against neglected dockless cycles that are on those sections of footway or carriageway where there are concerns, e.g. the obstruction of the footway for all other pedestrians, and (ii) seeks approval for delegation of the Council's byelaw making function to London Councils Transport & Environment Committee (LC TEC) for the purposes of facilitating the making of the said pan London byelaw.
- 1.2 The City Council prioritises the development of walking and cycling measures above all else on its highway network to encourage a more sustainable city for all to live, work and visit. This policy has been in place for many years and has enabled the ongoing and successful partnership with Transport for London (TfL) in the implementation and operation of its Santander Cycle Hire Scheme, where there are now some 163 docking stations located across Westminster.
- 1.3 The Santander Cycle Hire scheme is considered to be well serviced, regulated and it poses no known risk to the safe management of the City's Highway Network for all to walk on our streets and travel further afield. However, in recent years there has been an influx of innovative micro-mobility transport modes in response to the growing demands for healthier and sustainable transport in many cities across the world. These are commonly known as 'dockless' vehicle hire and at present in the UK these are legally limited to the use of cycles, whereas in other cities EV scooters have been introduced. Those in London include Mobike and the EV assisted Lime and Jump alternatives.
- 1.4 Dockless hires schemes have proven to be popular amongst a wide range of users as their operating model allows users to freely hire, cycle and park their vehicles without or within their limited parking and docking restrictions, across operating areas and Borough boundaries. This therefore increases flexibility in journeys and encourages overall cycling trips across the capital to grow thus helping London to reach the Mayor's Transport Strategy to achieve 80% of all trips made in London by foot, cycle or public transport by 2041. Dockless hire schemes also meets the City Council's ambition to achieve its City for All Healthier & Greener city pledge, by encouraging active travel, emitting lower emissions compared to private vehicles and public transport.
- 1.5 However the competition amongst such dockless operators has resulted in large fleets of cycles being deployed around Westminster, sometimes without the consultation or permission to operate across several London Boroughs.
- 1.6 At present, existing arrangements between individual London Boroughs and operators regarding the operation of dockless cycles are entered into a Memorandum of Understanding (MoU) specifying how the scheme will comply

with the existing Dockless Bike Share Code of Practice 2018 by TfL. The code was developed in conjunction with London Borough's and other key stakeholders and outlines the requirements and recommendations that operators are expected to follow as part their intentions to operate a safe and effective scheme in Westminster. However, MoU's are non-legally binding contracts and as a result it is advised that some of the operators have not adhered to the set conditions, e.g. in respect of sensitive geo-fenced areas where cycle hiring is not permitted. As a result, in 2019 there is a state of operating inconsistencies for both the operators and the participating London Boroughs alike.

- 1.7 In light of the above, the London Councils' Transport & Environment Committee (LC TEC) have instructed TfL and Borough Officers to jointly develop a new regulatory approach. LC TEC believes that the current operating arrangements through the various Borough MoUs are impractical and the lack of clarity on cycle parking limits [and potentially undermine] the potential of cycling as a serious transport mode. As a result, across London we have a position where there are pockets of unregulated cycle parking, and no designated cycle parking zones, not to mention the wilful obstruction of the highway in breach of S137 of the Highways Act 1980 which amounts to the daily risk of abandoned cycles being placed in the way of pedestrians on London's footways, which is a barrier to members of the public who are mobility impaired.
- 1.8 It has been agreed through the LC TEC that a pan-London approach is needed, which is capable of introducing safeguards for London Boroughs to retain control of how their public space is managed. Existing legislation does not provide controls for dockless hire schemes and the Government currently have no plans to introduce new legislation to regulate such schemes. Accordingly, TfL and the London Boroughs have agreed to take the lead on the creation of a London wide solution.
- 1.9 It is proposed that under the arrangement following the introduction of the byelaw the City Council maintains a level of control over current and all future dockless vehicle hire operations on its streets primarily through the powers of this proposed pan-London byelaw. This in turn will do away with the current 'patchwork' of weak and limited individual Borough MoUs that have been in place before.
- 1.10 Whilst London Boroughs have the power to create new byelaws individually under the Local Government Act 1972, this report seeks approval for the City Council to delegate its authority to make the byelaws to LC TEC in relation to the regulation of dockless cycle schemes. As an existing joint committee representing all of London's local highway authorities, the LC TEC has agreed that it is the most suitable body to undertake both the promotion and making of such pan-London byelaw. However, the LC TEC Agreement will require amendment so that the Local Authorities' legal functions relating to making a byelaw can be delegated as function of LC TEC.

- 1.11 This proposed delegation will be restricted and only for the purpose of allowing LC TEC to make and promote the pan-London byelaw on behalf of all Local Authorities within Greater London. Therefore, signing the amendment to the LC TEC Agreement will mean no loss of control on each London Boroughs and TfL's assets or powers. And the approval of any future designated 'Dockless parking space', which are referred to in the draft legislation, and stipulated enforcement actions will be retained and under the discretion of each London Borough.
- 1.12 Due to the number of stakeholders involved as well as the various internal processes, the deadline for all London boroughs to delegate their authority to making the byelaw to LC TEC is 5 December 2019. It is expected the final byelaw will be ready for implementation six months thereafter.

2. Recommendations

- 2.1 It is recommended that the Deputy Leader and Cabinet Member for Environment and City Management approves the delegation of the City Council's authority to make the byelaws to LC TEC, so that a single byelaw can be created across all the London Boroughs at the request of the LC TEC members, for a pan-London dockless regulatory approach.
- 2.2 It is recommended that the Deputy Leader and Cabinet Member for Environment and City Management delegates authority to the Executive Director for City Management and Communities to agree on a final byelaw and to enter into any necessary legal agreements with TfL. In consultation with the Deputy Leader and Cabinet Member for Environment and City Management where necessary.

3. Reasons for Decision

- 3.1 The proposed byelaw defines clearly that no dockless operators shall cause or permit dockless vehicles to be placed on any highway or public place, other than a permitted dockless parking space agreed by the Authority or private land owners. Failure to comply with the byelaw will result in prosecution of offending operators.
- 3.2 The proposed byelaw also states that no dockless operator can offer the hiring of a dockless vehicle other than on terms which prohibit the hirer from leaving the vehicle on any section of highway or other public place other than within a designated 'dockless parking space'.

4. Background, including Policy Context

- 4.1 Since the launch of the first dockless cycle hires in London, there has been ongoing issues for several London Boroughs, due to many dockless operators using ineffective business models and sometimes without a formal MoU's to comply to TfL's Code of Practice for Dockless Cycles. Operators such as Ofo, Mobikes, Lime and JUMP placed cycles across the city in the thousands and quickly cluttered public spaces without agreed parking spaces for operators' deployment as well as defined spaces for users to end their journey to park. Operators have been engaging with Westminster City Council and have been informed they are not permitted to operate on the Westminster highway which includes:
- The deployment of cycles by operators in Westminster
 - Allowing users to end their journey in Westminster
 - Allowing users to hire and unlock a dockless cycle in Westminster
- 4.2 Since the launch of dockless cycle hire, there has been a mixed level of compliance under the TfL Code of Practice from the operators. Most of which are not deploying vehicles in Westminster, but user's journeys are freely allowed to end and are then immediately available for hire in Westminster before operators carry out a 'sweep' and relocate bikes into their retrospective permitted areas of operation. Geo-fencing technology allows the user to have an idea of permitted zones through the smartphone app. However, this remains to be unclear to users and there are limitations on user-incurred fines where cycles are locked in unpermitted areas. Namely as this can discourage journeys and result in revenue loss for operators.
- 4.3 The implementation of the proposed dockless vehicle hire byelaw will help to address the following policies:
- 4.4 The London Plan, Policy D1, A(8.) - encourage and facilitate active travel with convenient and inclusive pedestrian and cycling routes, crossing points, cycle parking, and legible entrances to buildings, that are aligned with peoples' movement patterns and desire lines in the area.
- 4.5 Westminster's Walking Strategy 2017-2027 refers to the Mayor's Transport Infrastructure Policy S43: "The council will support and promote improvements to transport infrastructure, including the..... Increasing cycle parking and improving safety for cyclists where this would not compromise pedestrian movement including public cycle hire schemes throughout Westminster"
- 4.6 One of the Local Implementation Plans (LIP3) objectives is to "minimising the impact of transport on the environment: making walk and cycling more attractive" e.g. providing regulated and enforceable dockless parking for users and operators.

- 4.7 The proposed byelaw will contribute to the 2019-2040 City Plan objectives. It is intended that the implementation of the byelaw will address the following:
- S25, A – The council will support a sustainable pattern of development which maximises trips made by sustainable modes, creates safer streets for all, reduces traffic, improves air quality and reflects the objectives in Westminster’s Transport and Public Realm Programme and Local Implementation Plan 2019/20 to 2021/22;
 - S25.7 – encouraging more use of active travel options, like walking and cycling;
 - S26.7 – enabling people to lead healthier, more active lives, can help to reduce the pressure on highways capacity and public transport, facilitate improvements to the public realm and enable greater numbers of people to use the existing road space;
 - S26.8 – increase shift from the motor car, resulting in reduction of harmful emissions and leading to improved air quality;
 - S26.10 – provision of cycle parking and storage facilities, as well as facilities for cycle hire.
- 4.8 One of the objectives of Westminster Sustainable Modes of Travel Strategy 2017 is to improve the City’s infrastructure for walking and cycling to further encourage and promote cycling and walking.

5. Scheme Proposals

- 5.1 LC TEC has agreed that the future approach to managing all dockless vehicle hire is to move to a borough borderless operation across Greater London. Control of the vehicle fleets will be achieved using Boroughs using existing powers to designate parking spaces, and (following the necessary delegation of powers and subject to the byelaw making procedures) LC TEC promoting a pan-London byelaw on Borough’s behalf to prohibit operators from parking vehicles other than in approved parking spaces. The draft byelaw is under review by Borough Officers to ensure the correct controls and enough scope to enable Boroughs to manage dockless vehicle hire locally.
- 5.2 The dockless vehicle hire byelaw headlines:
- The clarification of definitions on terminologies used in the draft byelaw currently undefined in legislation (e.g. a dockless operator)
 - States that the byelaw applies throughout Greater London;
 - Sets out minimum safety standards for vehicles available for hire;

- Requires all dockless vehicles to be micro chipped so their locations can be tracked at all times and can be identified through individual asset numbers for enforcement;
- Requires all dockless vehicles to be left only in public places agreed by the relevant local authority, and makes it an offence for dockless operators to allow their vehicles to be parked anywhere else other than a location agreed by the local authority; and
- Sets a penalty charge for dockless operators who fail to comply with its requirements.

- 5.3 The drafted wording covers dockless cycles/Electronically Pedal Assisted Cycle (EPAC) and could apply to electric kick scooters or other micro-mobility vehicles. Local issues, such as the number of parking spaces to approve and where they should be located, are all at the local authorities' discretion. It is envisaged that the approved spaces would not be exclusive to specific operators and open to all operators to facilitate journeys across borough boundaries.
- 5.4 Points of detail on the final wording of the byelaw is now being considered by LC TEC. Additional areas of work are being developed to provide the byelaw a viable operational framework for dockless vehicle hire sharing in London. The areas of work are developed with borough officers and covers:
- Preparation of guidance on how enforcement will be undertaken and managed;
 - The collection, management and provision of data that informs dockless customers and other highway users where dockless vehicles should be parked;
 - Proposed procedures for designating or approving parking spaces; and
 - How boroughs may charge dockless operators for the use of the parking spaces they make available.
- 5.5 Central Government is being informed of progress on the making of this byelaw by Transport for London.

6. Programme

- 6.1 At the TEC meeting on 21 March 2019, LC TEC agreed the most effective way to manage future dockless hire schemes is to move away from the status quo, and instead to a pan-London regulatory approach throughout Greater London.
- 6 December 2018 – LC TEC agreed in principle to a pan-London approach to regulating dockless vehicle hire schemes.
 - December 2018 to March 2019 – drafting of The Greater London Dockless Vehicle Byelaw and supporting documentation

- January 2019 – UK dockless operators informed of the proposed byelaw at industry meeting and ongoing consultation with operators during the drafting of the byelaw
- 21 March 2019 - LC TEC agreed on pan-London byelaw
- March to May 2019 – draft byelaw and supporting documentation finalised
- May 2019 – draft byelaw and supporting documentation circulated to Borough Officers' for comments and consultation and seek individual Borough legal advice
- 13 June 2019 – LC TEC agree to start the process of amending the LC TEC Agreement to delegate the borough's functions
- June to October 2019 – ongoing liaison with Borough Officers to agree on final wording on the draft byelaw
- October 2019 – report to be made to LC TEC on the following:
 - (i) *Approval of the final wording of the draft byelaw*
 - (ii) *Delegated authority for the regulatory burden and impact assessments to be finalised by officers;*
 - (iii) *Authority to seek Ministerial approval of the byelaw (and in relation to a byelaw made pursuant to power delegated by the City of London Corporation, Ministerial confirmation of the byelaw); and*
 - (iv) *Authority to commence stakeholder consultation*
- 5 December 2019 – deadline for London Boroughs to submit signed delegation to the LC TEC
- December 2019 to February 2020 – submission of byelaw application to Secretary of State for approval
- February to March 2020 – advertisement of the proposed byelaw by LC TEC and commence public consultation
- April to October 2020 – LC TEC to decide whether the byelaw will proceed from public consultation, and at this stage minor modifications are permitted (i.e. a modification that does not bring any new activity into the scope of the proposed byelaw or increase the scope of any prohibition or restriction on an activity).
- April to October 2020 – making the byelaw and the publicising of the byelaw
- Byelaw come into force 30 days after the date they are made

6.2 The programme is subject to approvals and involvement from third parties including all Greater London Boroughs, City of London Corporation and Transport for London.

7. Outstanding Issues

- 7.1 This Cabinet Member Report does not directly authorise the operation of any dockless vehicle hires operating in City of Westminster. Instead dockless operators are subject to Licencing and traffic order consultation.
- 7.2 A Westminster dockless vehicle hire strategy is to be drafted following the making of the byelaw and be subject to the Deputy Leader and Cabinet Member for Environment and City Management's approval. It will highlight detailed requirements for operators to adhere to within the City of Westminster.
- 7.3 As always dockless vehicles can be parked in privately owned public spaces, typically as long as these are accessible by any member of the public. In this respect the proposed pan London byelaw will have no power under such circumstances to regulate or penalise. However, it is anticipated the consultation of all approved dockless spaces should include all key stakeholders managing such privately owned public spaces, as set out in the Westminster dockless vehicle hire strategy.

8. Financial Implications

- 8.1 Legal advice and support incurred fees is to be approved by the Deputy Leader and Cabinet Member for Environment and City Highways, under 2.3 section of this report. Legal costs will be charged against the City Highways budget.
- 8.2 Currently, the operators are being enforced against by way of legislation of the Highways Act 1980, Section 137(1) and the London Local Authorities and Transport for London Act 2003, Schedule 4, Section 8. Offences under such legislation will not exceed level 3 (Maximum fine £1,000) on the standard scale.
- 8.3 'Any person' (applicable only to the owner of the dockless vehicle, i.e. the dockless operator) offending against the proposed dockless byelaw shall be liable on summary conviction to a fine not exceeding level 2 (Maximum fine £500) on the standard scale.

9. Legal Implications

- 9.1 Section 235 of The Local Government Act 1972 empowers Local Authorities to make byelaws. However, it is considered not practical for the same byelaw to be made individually by each of the 33 London boroughs. Therefore, each of the London Authorities participating in the LC TEC joint committee arrangements agrees to delegate the exercise of additional functions to the joint committee,

which requires the LC TEC constitution (Governing Agreement, dated 13 December 2001 (as amended)) to be varied.

An appropriate amendment would be by way of an addition to the Part 3(D) Functions, inserting a new paragraph 2(c) as follows:

"(c)(i) the making of byelaws under section 235 of the Local Government Act 1972 (and, in respect of the City of London Corporation, under section 39 of the City of London (Various Powers) Act 1961) for the purpose of regulating dockless vehicles on the highway and/or public places (including by making it an offence for a dockless vehicle operator to cause or permit their dockless vehicle to be left on the highway or public space other than in an approved location), including taking all related steps to promote, make, amend and revoke any such byelaw.

(c)(ii) The exercise of powers under Section 1 of the Localism Act 2011 for the purposes of giving effect to (i) above, including but not limited to oversight and management of the arrangements (but excluding prosecution or other enforcement)

- 9.2 When LC TEC is asked to arrange of delegation of powers, provisions should be made at the same time to issue a section 101 agreement which will enable TfL to enforce the byelaws on its own road network, as the borough can on theirs.
- 9.3 The Council confirms that, in formulating the proposals set out in this report, it has had regard to its public sector equality duty contained in Section 149 of the Equality Act 2010.
- 9.4 The Director of Law has considered this report and is satisfied that the proposed works and orders fall within the Council's statutory powers as detailed in 9.1 above.

10. Consultation

- 10.1 All UK dockless operators were advised of the proposed regulatory approach at an industry meeting in January 2019. Operators are in regular consultation with TfL to explore their views on the potential effect of the proposed regulation. The collective approach that is taken to addressing the matters raised by operators and others may affect the drafting of the byelaw and the supporting documents.
- 10.2 The proposed byelaw is not at a public consultation stage whilst this is in the process of being finalised. Under guidance from Ministry of Housing, Communities & Local Government states the responsible body for making the byelaw (LC TEC) will advertise and consult on the proposed byelaw publicly and must consider all representations received before the decision is made on

whether the byelaw will be made, the expected timeline highlighted as per Section 6.1 of this report.

- 10.3 The delegation of making the byelaw to the LC TEC does not have a specific impact on an individual ward, therefore Ward Members have not been consulted upon.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Steve Tse on 0207 641 3561 or email:
stse@westminster.gov.uk

BACKGROUND PAPERS:

The London Plan

https://www.london.gov.uk/sites/default/files/the_london_plan_2016_jan_2017_fix.pdf

Westminster's City Plan

https://www.westminster.gov.uk/sites/default/files/city_plan_2019_to_2040_draft.pdf

Westminster Cycling Strategy

<https://www.westminster.gov.uk/cycling-strategy-0>

Westminster Walking Strategy

https://www.westminster.gov.uk/sites/default/files/wcc_walking_strategy_2018.pdf

The Mayor of London's Cycle Vision for London

<http://content.tfl.gov.uk/gla-mayors-cycle-vision-2013.pdf>

Mayor of London's Cycling Action Plan

<http://content.tfl.gov.uk/cycling-action-plan.pdf>

Dockless bike share code of practice

<http://content.tfl.gov.uk/dockless-bike-share-code-of-practice.pdf>

Westminsters Sustainable Modes of Travel Strategy 2017

https://www.westminster.gov.uk/sites/www.westminster.gov.uk/files/sustainable_modes_of_travel_strategy_2017.pdf

For completion by the **Deputy Leader and Cabinet Member for Environment and City Management**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: **Councillor Tim Mitchell**

State nature of interest if any

(N.B: *If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter*)

For the reasons set out above, I agree the recommendation(s) in the report entitled **The Greater London Dockless Vehicle Hire Byelaw** and reject any alternative options which are referred to but not recommended.

Signed

Deputy Leader and Cabinet Member for Environment & City Highways

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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.....
.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law , Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further

relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Members: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix A: Other Implications

1. Resource Implications

1.1 There are no known resource implications arising from this report.

2. Business Plan Implications

2.1 There are no known Business Plan implications arising from this report.

3. Risk Management Implications

3.1 There are no known risk management implications arising from this report.

4. Health and Wellbeing Impact Assessment including Health and Safety Implications

4.1 There are no known Health and Wellbeing Impact Assessment including Health and Safety implications arising from this report.

5. Crime and Disorder Implications

5.1 Regulated dockless parking should help reduce anti-social behaviour and incidents.

6. Impact on the Environment

6.1 There are no known impact on the environment arising from this report.

7. Equalities Implications

7.1 The outcome of the proposed byelaw should have a positive impact on those with mobility difficulties. Agreed spaces to park and enforcement powers will discourage dockless vehicles to be parked illegally and causing a wilful obstruction to the highway.

8. Staffing Implications

8.1 There are no staffing implications arising from this report.

9. Human Rights Implications

9.1 There are no human rights implications arising from this report.

10. Energy Measure Implications

10.1 There are no energy measure implications arising from this report.

11. Communications Implications

11.1 Communication with Cabinet Member for Environment and City Management and other key stakeholders will continue throughout the future stages of making the byelaw.

Appendix B: DRAFT DOCKLESS BYELAW

Appendix C: Spencer Palmer TEC Delegation