



DOCKLESS BICYCLES - LONDON-WIDE BYELAW

**CORPORATE COMMITTEE
MEETING DATES 2019/20**

2 October 2019

CLASSIFICATION:

OPEN

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

All Wards

GROUP DIRECTOR

Kim Wright, Neighbourhoods and Housing

1. INTRODUCTION

- 1.1. Hackney supports cycle hire schemes as they enable access to a bike without the need to own one and is a way of getting more people cycling. However, the London Santander cycle scheme only covers the south of the borough and therefore is of limited benefit to our residents. The Council fully supports the roll out of dockless bike schemes, which allows flexibility as to where bikes can be hired from and where they can be left. But this flexibility needs to be balanced with the needs of pedestrians using pavements/highways and to ensure that when they are parked, the bikes do not block pavements and make it hard for people, especially those with mobility impairments, to get around. Boroughs have recognised this as a Londonwide issue and have worked with London Councils, the existing joint committee representing all of London's local highway authorities, to set in motion a way of better controlling where dockless bikes can be safely left.
- 1.2. As part of a competitive tendering process, officers have specified how the Council wants to work with bike sharing partners in Hackney in order to help us increase the amount of cycling in the borough and bring greater rigour to the rollout of dockless bike technology. Through this competitive process we are to work with local dockless bike operators 'Beryl and Jump' on a two year project which will see hundreds of bikes operating throughout the borough. These operators are committed to only operating from designated parking areas which we have defined in agreement with them.
- 1.3. Currently, each Local Authority reaches individual agreements with their specific operators as to how the schemes are managed. London Councils TEC have now agreed that the correct future approach for dockless bike sharing would be to move to a common operation throughout Greater London.

2. RECOMMENDATIONS

2.1 That the Committee recommends to Full Council, the development and adoption of the new pan-London Dockless Byelaw as proposed by the London Councils Transport and Environmental Committee [LCTEC] and also recommends the delegation of the Borough's functions relating to making and promoting the pan-London dockless byelaw to LCTEC

2.2 That Committee recommends to full Council the Chief Executive as the authorised person to delegate the borough's functions in recommendation 2.1.

3. BACKGROUND

3.1 The issue of managing where dockless bikes can be safely left has been exercised by TfL and borough officers. TfL's Code of Practice on dockless bike operation, to which operators should adhere, requires operators to manage their schemes so that bikes do not restrict or affect the use of footways or other public spaces. However, this has not always been effectively managed by operators. Further, councils have limited scope to effectively manage where dockless bikes can be parked. TfL, London Councils and borough officers have discussed a move away from the status quo, where boroughs reach individual agreements with specific operators, and instead move to borderless operations throughout London. A byelaw has been drafted with the aim of providing the right controls and sufficient scope to enable boroughs to retain control of how schemes are managed locally.

3.2 It is envisaged that the control of the bike schemes would be achieved by Boroughs using their existing powers to designate parking places for dockless bikes, and the promotion of a pan-London byelaw on the Boroughs' behalf to prohibit bike operators from parking dockless bikes other than at approved parking places. This would be following a proposed delegation of powers and also subject to byelaw making procedures.

3.3 As an existing joint committee representing all of London's highway authorities, London Councils Transport and Environment Committee [LCTEC] has agreed that it is a suitable body to undertake both the promotion and the making of such a pan-London byelaw. However, to enable them to do so, the current LCTEC Agreement needs to be amended. At the LCTEC meeting held on 19 June 2019, it was agreed to commence the process of amending the LCTEC agreement currently in place and to delegate the Council's functions relating to making and promoting a pan-London byelaw to LCTEC. The reasoning behind the amendment is as a result of LCTEC not having the legal authority to undertake the function of making a Londonwide Byelaw relating to dockless bike parking on behalf of the London local authorities.

3.4 The proposed delegation is highly restricted. It specifically relates to allowing LCTEC to make and promote a London Byelaw to manage parking of dockless bikes. The Council would still be allowed to manage the extent of dockless bike parking. The enforcement of the Byelaw would be a matter for local decision making and control at the discretion of each London Borough. The proposed draft Byelaw is attached to this report at Appendix 1. The proposed wording of the Byelaw covers both dockless bikes and e-bikes and could apply to electric scooters or other micro mobility vehicles.

3.5 LCTEC invited the London Boroughs to provide comments to them on the proposed wording of the Byelaw. This Council's legal department have submitted comments to the LCTEC for consideration in relation to whom the Byelaw should be enforced against. Currently, the wording of the draft Byelaw limits enforcement to the Dockless operator. This Council has proposed that they consider whether enforcement should be extended to a Customer of the Dockless operator too, in order to deter customers of the Dockless operators

from leaving the Dockless bikes in a non-designated area. These submissions have been forwarded to LCTEC's legal team and TfL. The Council have been advised that a further report is to be made to LCTEC on 10 October which is expected to seek approval of the final wording of the Byelaw. The report will also enable other essential procedural parts of the process for both the adoption and implementation of the byelaw to be taken forward and clarified. It has been decided that during this time, the process of delegating powers should continue in parallel. An update will be provided to Council following this meeting.

3.6 London Councils are seeking each London Borough to go through their internal Governance processes and return a signed declaration by 5 December 2019. The declaration, attached to this report at Appendix 2, relates to the specific delegation to LCTEC to make the byelaw to regulate the parking of dockless bikes.

3.7 Byelaws are a Non- Executive Function that are to be exercised by Full Council. It is proposed that a report is placed before the next Full Council on the 30th October 2019. However, before this can be done, a recommendation from Corporate Committee is required for the Development and adoption of the proposed Pan-London Byelaw.

4. OTHER CONSIDERATIONS

4.1 Policy Context

Hackney's Transport Strategy seeks to encourage more cycling in the borough and includes a target of 15% cycling mode share for all journeys by 2025. Dockless bikes have a role to play in increasing the amount of cycling particularly for those residents without ready access to their own bike.

4.2 Equality Impact Assessment

The Council carried out an Equality Impact Assessment for its Local Implementation Plan [Transport Strategy]. This assessed the LIP objectives on eight equality groups. The EqIA considered the impact on Objective 1 Reallocation of road space which states the Council will continue to reallocate carriageway road space from private motor vehicles to cycle route provision or cycle parking, walking or bus infrastructure. Identifying designated parking areas for dockless bikes would be within this objective.

4.3 Sustainability

Greater use of dockless bikes contributes to a switch away from motor vehicle traffic with associated improvements to air quality and a reduction in CO2 emissions.

4.4 Consultations

Not applicable at present

4.5 Risk Assessment

LC TEC are requesting that all Boroughs delegate the power to make the byelaw. There is a risk that not all boroughs approve this delegation and that therefore the byelaw is not enacted.

4.6 Alternative Options

The Council could progress its own byelaw instead of supporting a pan-London byelaw. However, it is considered this would not be the most effective approach. Any byelaw to manage designation of parking areas for dockless bikes is likely to require sign off by the Secretary of State.

5. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

5.1 This proposal will have no financial impact to the Council as it proposes delegating a function to the London Councils Transport and Environment Committee.

6. COMMENTS OF THE DIRECTOR, LEGAL AND GOVERNANCE

6.1 Paragraph 3.2 of the Council's Constitution lists the Council Functions which cannot be the responsibility of the Executive. Paragraph 3.2.8 under the heading 'Byelaws' provides that the function of "Making, amending, revoking, re-enacting or enforcing byelaws" is to be exercised by Full Council.

6.2 Paragraph 3.3.1 of the Councils constitution, under Full Councils terms of reference, lists 'Making, amending, revoking re-enacting or adopting byelaws and the promoting or opposing the making of legislation or personal bills.'

6.3 As this decision concerns the adoption and delegation of a new Byelaw which is to be implemented and will be enforced by this Council, it will need to be approved by Full Council.

6.4 Within the Terms of reference for corporate committee, it states that they are to 'develop, monitor, review and make recommendations to Full Council on the adoption of Byelaws'.

6.5 Article 11 of the Constitution states that the Council may delegate non-executive functions to other organisations or boards where legislation allows (paragraph 11.11).

6.6 The relevant legislation which would allow for this delegation falls within the remit of this is section 101(5) of Local Government Act 1972 which states:-

"Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so,— (a)

they may also arrange for the discharge of those functions by a joint committee of theirs; and”

London Councils Transport and Environment Committee (LCTEC) is a joint, statutory committee under sections 101 and 102 of the LGA 1972.

6.7 The next Full Council is to be held on the 30th October 2019. The above recommendations are required from the Committee to be made to Full Council.

APPENDICES

1. Draft byelaw (This is Subject to change)
2. Form to delegate authority

BACKGROUND PAPERS

None

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Appendix 1 Draft byelaw

The Greater London Dockless Vehicle Hire Byelaws

Draft Bye Law - 29 July 2019

1. General Interpretation

In these byelaws:

“Docking Station” shall exclude any Sheffield Stand unless it has been designated or approved as a Dockless Parking Space

“Dockless Parking Space” shall mean a parking place for Dockless Vehicles designated by a Local Authority or Transport for London or any Public Place where a parking area for Dockless Vehicles has been approved in writing by the Local Authority or Transport for London as an area where Dockless Vehicles may be placed and made available for hire.

“Dockless Vehicle” means any transport device (whether mechanically propelled or not) which is made available to hire through a Dockless Hire Scheme and which is a pedal cycle, electrically assisted pedal cycle, or any similar class of transport device which may be lawfully used on the highway.

“Dockless Hire Scheme” means a scheme offering Dockless Vehicles for hire from a highway or other Public Place (other than a scheme offering Dockless Vehicles wholly or partly from a Docking Station constructed and installed for their use) where the contract for hire is entered into without the simultaneous physical presence of the Dockless Operator and the hirer.

“Dockless Operator” means any person offering Dockless Vehicles for hire through a Dockless Hire Scheme

“Public Place” means an area of highway or other open land (whether or not it is fenced) under the ownership or control of a Local Authority or Transport for London.

“Local Authority” means a London Borough Council or the Common Council of the City of London.

(2) A reference to:

- (a) legislation (whether primary or secondary) includes a reference to the legislation as amended, consolidated or re-enacted from time to time and, in the case of regulations, includes a reference to any regulations which replace the regulations referred to;
- (b) a “person” includes a natural person and a corporate or unincorporated body;
- (c) words in the singular include the plural and vice versa.

2. Application

These byelaws apply throughout Greater London.

3. Safe condition of Dockless Vehicles.

- (1) No Dockless Operator shall offer for hire a Dockless Vehicle unless it is safe.
- (2) In determining whether a Dockless Vehicle is safe regard shall be had to whether the Dockless Vehicle complies with, or the Dockless Operator has complied with, applicable provisions of:
 - (a) in the case of a pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983 and the Road Vehicles Lighting Regulations 1989;
 - (b) in the case of an electrically assisted pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983, the Road Vehicles Lighting Regulations 1989 and the Electrically Assisted Pedal Cycle Regulations 2015; or
 - (c) in all cases, any statutory requirements applicable to a Dockless Vehicle of that class.

4. Identification and management of Dockless Vehicles

- (1) No Dockless Operator shall offer a Dockless Vehicle for hire unless:
 - (a) it has an individually identifiable asset number visibly displayed;
 - (b) it is fitted with a device which ensures the location of the Dockless Vehicle can be identified at all times by the Dockless Operator, the local authority in whose area the Dockless vehicle is situated and Transport for London and the device is retained in operation.
- (2) No Dockless Operator shall offer a Dockless Vehicle for hire unless the hirer is prohibited from leaving the Dockless Vehicle on any highway or other Public Place other than at a Dockless Parking Space.
- (3) For the purposes of complying with paragraph 4(1)(b) and 4(2), the Dockless Operator shall make available real time location data via a publicly available application programming interface for each Dockless Vehicle that is available for hire or has been hired through its Dockless Hire Scheme.

5. Parking of Dockless Vehicles

No Dockless Operator shall cause or permit a Dockless Vehicle to be placed on any highway or Public Place other than at a Dockless Parking Space where the Dockless Operator is permitted to park or to cause or permit a Dockless Vehicle to be parked.

6. Penalty

Any person offending against these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Appendix 2 Form to delegate authority

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To: London Councils
59 ½ Southwark Street
London
SE1 0AL

FAO: Paulius Mackela

I.....[name and position of authorised person]

on behalf of..... [name of authority]

hereby confirm that my authority has resolved to delegate authority to London Councils' Transport and Environment Committee to exercise the following functions 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 place 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)

Signed

.....

Date

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