



**TITLE OF REPORT : Dockless Bicycles Enforcement Policy**

**KEY DECISION NO. NH Q.69**

<p><b>CABINET MEETING DATE 2020/21</b></p> <p>29 June 2020</p>	<p><b>CLASSIFICATION:</b></p> <p>Open</p>
<p><b>WARD(S) AFFECTED</b></p> <p>All Wards</p>	
<p><b>GROUP DIRECTOR</b></p> <p>Ajman Ali, Neighbourhoods and Housing (Acting)</p>	

## **1. CABINET MEMBER'S INTRODUCTION**

- 1.1 Hackney supports well managed cycle hire schemes as they enable access to ultra low carbon mobility, without the need to own a bicycle, and are a way of encouraging more people to access the health benefits of cycling, while significantly reducing the land transport emissions driving the climate emergency.
- 1.2 However, the London cycle hire 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 or visual impairments, to get around.
- 1.3 As part of a competitive tendering process, officers specified 20 key quality criteria for dockless bicycle operators, with the purpose of ensuring that such companies contribute to the borough's active travel ambitions and add value to the active travel experience with rigorous rules of operation.
- 1.4 As part of the introduction of dockless bikes in Hackney, dockless bike parking bays have been identified and located across the borough, as a general rule, on the carriageway. Any exceptions to this rule are only considered where there is clearly ample space and the bikes do not represent an obstruction.
- 1.5 Following significant efforts to introduce a Dockless Bike scheme where bikes are only allowed in designated bays, of which the vast majority are on the carriageway, this policy will enable the Council to take strong action against any dockless bike operators that allow their bikes to create obstructions on our pavements.

## **2. GROUP DIRECTOR'S INTRODUCTION**

- 2.1 This policy will enable the Council to apply existing powers, which are intended to give Local Authorities the power to keep their pavements clear of obstructions, to enforce against Dockless Bike Hire companies that are allowing their bikes to cause obstructions.
- 2.2 The Council has a contractual relationship with two operators, Hackney-based Beryl and Jump by Uber, who are both committed to only operating from designated parking areas on a two year project which will see hundreds of bikes operating throughout the borough. A memorandum of understanding with each of these companies sets out a number of performance related measures to ensure that they are meeting their obligations to keep Hackney pavements clear. This has proved effective in managing the bikes operated by these two companies, however, there is a need for this policy to apply similar principles and standards to manage bikes from other companies.
- 1.6 This enforcement policy will enable the Council to take action against any dockless bike operators, including those with whom we do not have a contractual relationship and who consistently allow their bikes to be left on our pavements.

## **3. RECOMMENDATION**

- 3.1 That the dockless bike enforcement policy in the appendix is approved
- 3.2 That the power to make minor changes to the enforcement policy is delegated to Group Director, Neighbourhoods and Housing.

#### **4. BACKGROUND**

- 4.1 The issue of managing where dockless bikes are safely left has exercised 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. But not all operators have effectively managed this. Currently, London Councils and TfL are promoting a London-wide byelaw which would require operators to only allow users to leave or hire dockless bikes from designated parking areas. Operators would be liable for a penalty charge for any bikes left outside these areas. Enforcement would be by the relevant borough. In order for this to happen every London borough is required to delegate its powers to promote and making of the byelaw to London Councils. However, it is not clear if this delegation will be achieved. Even if the byelaw is supported by all boroughs it is likely to be some time before it is enacted. The intention of the policy is to allow the Council to undertake enforcement action and is complementary to the Londonwide byelaw.
- 4.2 Hackney Council have contractual relationships with two dockless bike operators, Beryl and Jump who have commenced a two year scheme from December 2019. This relationship provides a mechanism for managing the parking of their bikes. It was not appropriate to enter into agreements with every dockless bike operator, as not all meet our standards or agree to our requirements so we need a mechanism to enforce against all operators including those with whom we do not have an agreement.
- 4.3 As part of their contractual agreement with the Council, Beryl and Jump have committed to manage their users to minimise the chances for dockless bikes being left at inappropriate locations and that users are only allowed to leave their bikes in designated parking areas.

Specific measures comprise:

- Operators to set up a credit system to fine or ban users from misuse and to control parking
- Agreement that the Council reserves the right to remove any bike that cause an obstruction and poses a health and safety risk and pay a fee for collection of removed bikes at £80 per bike
- Agreement that dockless bikes should only be left or hired from designated parking areas

#### **5. DOCKLESS BIKE ENFORCEMENT POLICY**

- 5.1 The aim of this policy is to reduce clutter caused by dockless bikes parked on the footway. Dockless bikes left on the footway can be a hazard to pedestrians,

especially people with visual impairments or physical disabilities or people with pushchairs.

- 5.2 The enforcement policy is set out in the appendix. The policy is in line with our A-boards policy which has been in operation for a number of years.

## **6. OTHER CONSIDERATIONS**

### **6.1 Policy Context**

Hackney 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.

### **6.2 Equality Impact Assessment**

An impact assessment is not required. The aim of the enforcement policy is to better manage the parking of dockless bikes by enforcing against operators that permit users to leave their bikes outside of designated parking areas. This is expected to reduce the number of bikes poorly parked which can benefit those with mobility impairments.

### **6.3 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.

### **6.4 Consultations**

Not applicable.

### **6.5 Risk Assessment**

As the first Authority to take this position, we may need to legally defend our position against well funded commercial operators.

### **6.6 Alternative Options**

There is no effective alternative option to enforcing parking of dockless bikes in inappropriate locations.

## **7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES**

- 7.1 This report seeks approval from the cabinet for the dockless bike enforcement policy at appendix 1. The policy aims to reduce clutter caused by dockless bikes parked on the footway.

- 7.2 Dockless bikes removed by the Council operators will incur a collection fee for each bike. The current fee is £80 per bike. This fee will be reviewed as part of the Council's Fees and Charges schedule and has no material impact on budgets. The key aim is deterrent not fines.

## **8. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE**

- 8.1 s.137 of the Highways Act 1980 makes it a criminal offence if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway.
- 8.2 If a person is prosecuted and found guilty of the above offence, they are liable to a fine not exceeding (level 3 on the standard scale).
- 8.3 s.8 of the London Local Authorities and Transport for London Act 2003 confers the power to a local authority to give a person a notice offering him the opportunity of discharging any liability to conviction for an offence under s.137 Highways Act 1980 offence by payment of a fixed penalty.
- 8.4 The scheme of delegation for Neighbourhoods and housing, under delegation NH13 delegates the Highways Act 1980 Section 137 and 138 and power to issue and enforce fixed penalty notices under s.8 of the London Local Authorities and Transport for London Act 2003 to Director, Public Realm  
Head of Community Safety, Enforcement and Business Regulation  
Enforcement and Business Regulation Manager Enforcement (North)  
Team Leader  
Enforcement (South) Team Leader  
All Enforcement Officers  
Head of Streetscene  
Group Engineers  
Senior Engineers  
Street Markets Inspector
- 8.5 s.149(1) of the Highways Act 1980 allows a local authority to make an application to the magistrates court for removal and disposal of something left on a highway so as to constitute a nuisance.
- 8.6 s.149(2) of the Highways Act 1980 confers the power on us to remove something deposited on a highway 'forthwith' if we have reasonable grounds for considering —
- A) that any thing unlawfully deposited on the highway constitutes a danger (including a danger caused by obstructing the view) to users of the highway, and
  - B) that the thing in question ought to be removed without the delay involved in giving notice or obtaining a removal and disposal order from a magistrates' court under this section.

- 8.7 The legislation also allows a local authority to recover any expenses ‘reasonably incurred’ in removing the thing removed from the person who deposited it or from any person claiming to be entitled to it.
- 8.8 In considering the Scheme of Delegation for Neighbourhoods and Housing, it appears that currently, there is no reference to the powers under s.149 of the Highways Act 1980.
- 8.9 Further, the powers relating to the removal of things so deposited on highways as to be a nuisance is a local authority function which cannot be the responsibility of the Cabinet as per the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 8.10 It falls within the Councils constitution under the tables which specify the delegation of Council functions to Committees, Sub-committees and officers. The Powers under s.149 Highways Act 1980 are delegated to the Group Director, Neighbourhoods and Housing. Therefore, there will need to be a delegation further down to allow officers to remove any bikes without notice, which will then be reflected in the Scheme of delegation for Neighbourhoods and Housing.

## APPENDICES

Appendix 1 - Dockless bike enforcement policy

### EXEMPT (or N/A)

N/A

### BACKGROUND PAPERS

None

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