

<b>COUNCIL</b>		
<b>Report Title</b>	Pan London Dockless Bikes Byelaw	
<b>Key Decision</b>	Yes	Item No.
<b>Ward</b>	All wards	
<b>Contributors</b>	Alex Crush, Transport Policy & Development Manager Josh Learner, Cycling & Walking Programme Manager	
<b>Class</b>	Part 1	Date: 27/11/2019

## 1. Summary

1.1. As a result of the introduction of dockless bikes in London and the emerging issues around them, such as the management and parking, London Councils' Transport & Environment Committee (LC TEC) has agreed to take on the promotion and making of a pan-London byelaw to help manage them. The byelaw would essentially prohibit dockless bike operators from allowing their bikes to be parked in locations other than at parking spaces approved by the borough.

1.2. This report seeks approval from Council to delegate to the London Councils' Transport and Environment Committee the power to make byelaws to govern the operation of dockless bikes by making a pan-London byelaw.

## 2. Purpose

2.1. The purpose of this report is to give an overview of the discussions had to date regarding dockless bike operators and the London Councils proposal to promote a pan-London byelaw to give local authorities legal leverage in the management of dockless bike operators.

## 3. Recommendations

3.1. Members are asked to:

1. Delegate to the London Councils' Transport and Environment Committee the power to make byelaws to govern the operation of dockless bikes by making a pan-London byelaw.

## 4. Policy Context

4.1. The Mayor of London's Transport Strategy contains an aim that by 2041, 80% of all trips in London to be made on foot, by cycle or using public transport.

4.2. LB Lewisham's Corporate Strategy (2018-22) sets out an ambitious vision to create positive change in the borough to improve the lives of everyone in

Lewisham. One commitment under this strategy is “Making Lewisham Greener”. Within this commitment the Council pledges to “make cycling safer and more attractive”, as well as to “promote cycling through our own bike-loan scheme and dockless bike hire schemes”

- 4.3. The Lewisham Cycling Strategy (2017) set out Lewisham’s policy objectives and an implementation plan for cycling in the borough. The introduction of a Dockless Bike pilot forms part of the strategy.
- 4.4. The proposals support the Council’s commitment to promote and increase cycling. This will encourage active travel within the borough and particularly shift journeys from short bus and car trips with potential benefits to air quality and public health.
- 4.5. The increased compliance with the 20mph speed limit resulting from the introduction of further traffic calming measures will also assist in changing the perception of cycling safety.

## 5. Background

- 5.1. Dockless cycle hire is a generic term for a short term cycle hire scheme, similar to Santander Cycles, but entirely ‘free floating’ – with no on-street docking infrastructure required. However, users may park bikes on or near public cycle stands. The schemes are commercially operated and do not require any public funding, other than the staff time involved in agreeing the parameters of the scheme’s operation.
- 5.2. Users of a dockless hire scheme use a smartphone app to locate the GPS enabled bikes, which are then unlocked electronically via the same app. At the end of the journey, the user is able to leave the bike anywhere convenient, and lock the bike using the app. The integral lock and kickstand mean that bikes do not need to be attached to a cycle stand or other street furniture to be secured.
- 5.3. With some schemes the operating area of the bikes can be restricted to a specific area using a ‘geo-fence’. The e-bike scheme currently being trialled in Ealing uses a geo-fence to restrict the bike to the Acton area. This GPS technology can be used to prevent bikes left outside defined areas being available for a new hire – relying on the person who rode it originally, or the bike hire operator to return the bike to the scheme area.
- 5.4. There are currently several dockless bike operators working in London, or about to launch:
  - **Mobike** continues to provide pedal bikes, mostly in central and inner London;
  - **Lime** provides e-bikes through agreements with several London Boroughs and at selected Thameslink rail stations;

- **JUMP** launched its first e-bikes in May in Islington and will presumably expand;
- **Freebike & Beryl** have been chosen by the City of London for a 6-month trial beginning this month; and
- **Youon** have yet to launch but have been in contact with boroughs with regard to launching a fleet of pedal bikes.

5.5. As such there is likely to be an ongoing need to manage dockless bike sharing schemes, and to find a way of addressing boroughs' concerns regarding the impacts of the inconsiderate parking of dockless bikes.

5.6. The LB Lewisham transport team has been working proactively with Transport for London (TfL) and London Councils, as well as neighbouring boroughs, to assess the right approach for implementing dockless bikes over the last year. A number of meetings have been held with operators including Ofo, MoBike and electric bike operators, Lime Bike and Jump.

5.7. Previously, the adopted approach amongst London boroughs was to reach an individual agreement with each operator via a memorandum of understanding (MoU) which is not legally binding. Officers analysed the practicalities of these agreements in action in neighbouring boroughs and decided to wait until the market had settled whilst still engaging with operators and stakeholders.

5.8. Street clutter has been a prominent issue for highway authorities. In addition, there is currently no legislation in place to stop dockless bike operators working in London without permission from the relevant borough.

## 6. Proposals

6.1. The making of a pan-London set of byelaws will give London boroughs the power to regulate the use of dockless bikes including prohibiting dockless bike operators from causing or allowing the parking of the bikes other than at parking spaces approved by the borough. The legal amendment will read as below:

6.2. 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 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)*

It is proposed that the byelaws also include the following:

- Definitions of several terms currently undefined in legislation (e.g. a dockless operator);
- States that the byelaw applies throughout Greater London;
- Sets out minimum safety standards for bikes;
- Requires all bikes to be chipped to ensure their whereabouts can always be tracked;
- Requires all bikes to be left (whether by dockless operators or their customers) only in places agreed by the relevant local authority, and makes it an offence for dockless operators to place or allow their bikes to be parked anywhere other than at a location agreed by the local authority;
- Sets a penalty for a dockless operator committing the offence.

6.3. A consultation draft of the Byelaw will be determined at a further meeting of LC TEC in due course. Ministerial approval will need to be sought thereafter and there will be a formal consultation exercise undertaken with stakeholders.

6.4. If the Byelaws are approved, each participating Council will be able to decide whether to ensure that appropriate parking spaces are designated, or opt to provide no parking provision at all. TfL has provided some draft documentation for this purpose. This includes a draft Order that can be made pursuant to section 45 of the Road Traffic Regulation Act 1984. However, there may be other means by which parking spaces can be designated.

6.5. This report only recommends that Full Council agree to delegate its byelaw making powers to TEC so as to be able to exercise control over dockless cycles operating in its area. This report and its recommendations will in no way commit the Council to allowing dockless bikes onto Lewisham streets.

6.6. If the Council approves delegation of the Byelaw making to London Councils, then once the Byelaw is enacted it will become an offence for dockless operators to place or allow their cycles to be parked anywhere other than at a location agreed by the local authority. The penalty for breaching a Byelaw will be a fine not exceeding level 2 on the standard scale (currently £500).

6.7. If the Council were to choose to allow dockless cycle into Lewisham, then additional work will need to be undertaken, including:

- Preparation of guidance on how enforcement will be undertaken and managed;

- The collection, management and provision of data that informs dockless cycle customers and other highway users where dockless bicycles may and may not be parked;
- Proposed procedures for designating or approving dockless parking spaces; and,
- How boroughs may charge operators for the use of the parking spaces they make available.

6.8 The 'do nothing' option would leave the Council with limited enforcement powers other than removing cycles as an obstruction of the highway. This has not been a significant problem in Lewisham to date but the expectation is that dockless mobility services will continue to grow in one form or another and having greater control of where cycles can be placed will become increasingly necessary.

6.9 If the byelaw proposal is approved it will then be submitted to the Secretary of State for review, and there will be a statutory consultation. Enactment is anticipated to be in spring 2020.

6.10 The detail of how boroughs might define and implement the approved parking spaces is currently being discussed at London Councils and will be kept under review by the borough.

## **7 Financial Implications**

7.1 This report recommends that Council agrees for London Councils to amend the London Councils' Transport and Environment Committee agreement to provide delegation of powers to London boroughs to prohibit dockless bike operators from parking the bikes other than at approved parking spaces via a pan-London byelaw. There are no direct financial implications arising from this recommendation.

7.2 Accommodating a dockless cycle hire scheme has no direct cost to the London Borough of Lewisham. However, staff time will be required to continue attendance at the borough officer dockless bike working groups, and to determine where the approved parking spaces should be. There would be an indirect cost if there was any loss of parking facilities to accommodate cycle stations. It is recommended that Cycle Stations are positioned in areas of 'High Cycle Demand and Low Parking Demand'. It is possible that dockless cycle hire schemes could create a new income stream for the Council in future, but this is not possible to quantify at present and would depend on future policy decisions.

7.3 If there were significant numbers of bikes deemed to be causing a danger, nuisance or obstruction, and the London Borough of Lewisham therefore remove them from the street in default of the operator's removal requirements, storage costs would also be incurred. Instances of removals would be monitored and inform reviews of the London Borough of Lewisham's position. Costs will be sought from operators in all instances where they are liable.

## **8 Legal Implications**

8.1 The report recommends that the making of pan-London Byelaws is delegated to LC TEC a joint committee of London Council The LGA at Section 101 (5) enables a local authorities to make arrangements for the discharge of its functions by a joint committee and enables any enactment relating to those functions to have effect subject to all necessary modifications in its application in relation to those functions and authorities by whom and in the areas in respect of which (whether in pursuant of the arrangement or otherwise) they are to be discharged.

8.2 The reference to the discharge of any function includes reference to the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of those functions..

8.3 Section 235 of the Local Government Act 1972 (“LGA”) enables a London Borough to make byelaws for the good rule and government of the whole or any part of its borough and for the prevention and suppression of nuisances therein. The procedure to be followed in making such byelaws is prescribed by the Byelaws (Alternative Procedure) (England) Regulations 2016 and this includes the requirement to submit a scheme for the making of a byelaw to the Secretary of State for approval.

## **9 Crime and Disorder Implications**

9.1 It is reasonable to assume that there will be cases of vandalism and theft regarding dockless bikes on the streets of Lewisham. It will be a legal requirement under the byelaw however for all dockless bikes to be chipped to ensure their whereabouts can always be tracked should any theft occur.

## **10 Equalities Implications**

10.1 In line with the Council’s Comprehensive Equalities Scheme the approval of the proposed pan London byelaw will address inappropriate parking of dockless bikes on the highway in a manner which causes inconvenience or disruption to highway users and would help meet the needs of all highway users, particularly those who are blind or partially sighted and those who require wider available footways such as for wheelchairs or buggies.

## **11 Climate Change & Environmental Implications**

11.1 Promoting sustainable forms of transport is a key component in LB Lewisham’s climate emergency status to reducing carbon emissions and the borough’s impact on the environment.

## **12 Background documents**

- [London Council Transport and Environment committee report](#)

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Appendix "A"  
Draft Dockless Byelaw

## 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 "B"

### London Councils TEC Delegation dockless byelaw – Explanatory note

#### **London Councils TEC Delegation dockless byelaw – Explanatory note**

After detailed discussions at London Councils TEC, it has been agreed that London Councils should seek amendments to the London Councils' Transport and Environment Committee Agreement (LC TEC Agreement) that would allow London Councils TEC to widen the scope of its current ability to make and promote the proposed pan-London byelaw on boroughs' behalf to prohibit bike operators from parking dockless bikes other than at approved parking spaces.

We are aware that some boroughs might have questions about the delegation process and have therefore developed this explanatory note to provide further information.

At the meeting on 21 March 2019, LC TEC agreed that the correct future approach for dockless bike sharing is to move away from the status quo, where Boroughs reach individual agreements with specific operators, and instead move to borderless operations throughout Greater London. As an existing joint committee representing all of London's local highway authorities, LC TEC has agreed that it is a suitable body to undertake both the promotion and making of such pan-London byelaw. For TEC to be able to do this, however, the LC TEC Agreement needs to be amended.

At the meeting on 13 June 2019, LC TEC agreed to start the process of amending the LC TEC agreement to delegate the boroughs' functions relating to making and promoting the pan-London dockless byelaw to TEC. The reason the Agreement needs to be amended is because none of the local authorities' functions relating to the making of a pan-London byelaw for dockless bikes parking are currently delegated as functions of LC TEC and the Committee therefore does not currently have the legal authority to undertake this function on behalf of the London local authorities.

The proposed delegation is highly restricted. The delegation is not a transfer of the authorities' powers in respect of dockless bikes parking to LC TEC but allows for LC TEC to make and promote a pan-London byelaw. There was no provision for this included when the LC TEC Agreement was first established.

Signing the amendment to the LC TEC Agreement does not mean any loss of control of your assets or powers. Every authority can be assured that the extent of dockless bike parking and the enforcement of the byelaw would be a matter for local decision-making and control, at the discretion of each London borough.

However, without all authorities signing the variation to the LC TEC Agreement the Committee would be unable to take on the promotions and making of this new byelaw. We are therefore asking authorities to go through their individual processes and return a signed declaration by **5 December 2019**.

A copy of the draft byelaw is also enclosed with the delegation document and this clarification note. Please could you provide any further feedback on the text of the

byelaw no later than **6 September 2019**, to allow further changes to be considered. We intend to ask LC TEC members to sign off the wording of the byelaw at the TEC meeting on 10th October 2019. This will enable other essential procedural parts of the process for making the byelaw to be taken forward while the process of delegating powers continues in parallel.

We hope that this provides more clarity on some of the issues raised and enables you to sign the amendment. If you have any questions about this process, please contact Paulius Mackela on Paulius.Mackela@londoncouncils@londoncouncils.gov.uk or 020 7934 9832. To enable us to track progress, we would also be grateful if you could confirm receipt and provide contact details for the officer who will be leading on this matter for you.