

Environment and Regeneration Town Hall, Upper Street, N1 2UD

Report of: Executive Member for Environment and Transport

| Meeting of: | Date | Wards |
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| Council | 20 th September 2018 | All |

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SUBJECT: London Councils' Transport and Environment Committee – Governing Agreement Amendment for Electric Vehicle Charging Infrastructure

1. Synopsis

- 1.1 London Councils' project team for the 'Go Ultra Low City Scheme' (GULCS) are investigating the potential to establish a delivery partnership arrangement for the London-wide management of public electric vehicle charging infrastructure.
- 1.2 London Councils' Transport and Environment Committee (LCTEC) are proposing changes to their Governing Agreement to provide authority to take on the operational management as well as the strategic oversight of a London-wide electric vehicle charging point network on behalf of London's local authorities, should this be required.
- 1.3 LCTEC will be developing a business case following further consultation with local authorities and other stakeholders and this will be presented to LCTEC for approval before any partnership is established.
- 1.4 In order for LCTEC to take on the function of managing and delivering electric vehicle charging infrastructure, each of the 33 London local authorities participating in LCTEC are required to formally delegate the exercise of additional functions to the committee. This delegation requires each London local authority formally agree to the variation of the LCTEC Governing Agreement, dated 13 December 2001 (as amended).
- 1.5 This report proposes that the Council resolves to delegate authority to LCTEC to exercise the function as outlined in paragraph 3.8 below.

2. Recommendations

- 2.1 To delegate authority to LCTEC to exercise the further functions, set out in paragraph 3.8 of this report.
- 2.2 To authorise the Council's acting Director of Law and Governance to sign any necessary documents to give effect to the variation of the LCTEC Governing Agreement dated 13 December 2001 (as amended), and as attached at Appendix A.
- 2.3 To note that a subsequent decision will be needed before the Council can formally agree the details of LCTEC's actual exercise of this new function of managing and delivering electric vehicle charging infrastructure.

3. Background

- 3.1 The Capital's GULCS bid to the Office for Low Emission Vehicles' was submitted by the Mayor of London, Transport for London (TfL) and London Councils in October 2016. The bid involved a number of different elements including the installation of residential charging infrastructure, installation of charge points adjacent to car club bays and the establishment of a pan-London delivery vehicle for new charging points. This London's bid was successful and was awarded £13m of funding.
- 3.2 TfL and London Councils are currently in stage 1 of the GULCS project, which involves granting funds to various London local authorities to install electric vehicle charging points for public use. London Councils have also established a procurement framework to assist boroughs in delivering their agreed GULCS initiatives. During these early stages of GULCS project work, it quickly became apparent that some form of centralised contract management and customer facing partnership body was desirable, given the resource constraints boroughs are facing and the benefits a consistent approach might deliver.
- 3.3 All London local authorities¹ currently participate in LCTEC, a body that provides a range of services such as administration of parking and traffic appeals, the Lorry Control Scheme and the Freedom Pass. LCTEC also lobbies on behalf of London boroughs regarding transport and environment policies generated by government departments, the European Union, and the Mayor of London. As an existing joint committee representing all of London's local highway authorities, LCTEC has agreed that it is a suitable body to undertake both the strategic oversight and operational management of such a partnership.
- 3.4 Islington Council is represented on LCTEC by Councillor Claudia Webbe (Executive Member for Environment and Transport). Councillor Webbe is also a member of the London Councils' Electric Vehicle Charging Infrastructure Working Group.
- 3.5 A report was presented to a LCTEC meeting on 15 June 2017 proposing amendments to the LCTEC Governing Agreement in support of the GULCS activities (see Appendix B). This measure is proposed to overcome the legal and constitutional barriers to the proposed delivery partnership. The proposed changes to LCTEC's Governing Agreement would provide LCTEC with the authority to take on the operational management, as well as the strategic oversight of a London-wide electric vehicle charging point delivery partnership on behalf of London's local authorities, should this be required.
- This new function for LCTEC would require each of the 33 London local authorities participating in the TEC joint committee arrangements to delegate the exercise of additional functions to the joint committee, which requires all London local authorities to formally agree to the variation of the LCTEC Governing Agreement, dated 13 December 2001 (as amended), and attached at Appendix A.
- 3.7 As of 14 August 2018, nine London boroughs have given their consent to amend LCTEC's Governing Agreement:

¹ London local authorities include 29 London boroughs, the Royal Boroughs of Kensington and Chelsea and Kingston-upon Thames, the City of Westminster and the City of London.

- Barnet
- Camden
- Croydon
- Enfield
- Hackney
- Hounslow
- Lewisham
- Redbridge
- Westminster
- 3.8 LCTEC are requesting that each London local authority agree to the following amendment to the LCTEC Governing Agreement by way of an addition to the Part 3(D) Functions, inserting a new paragraph 2(b) as follows:
 - "(b)(i) The provision and operation of charging apparatus for electrically powered motor vehicles and/or the grant of permission to provide and operate charging apparatus for electrically powered motor vehicles under section 16 of the London Local Authorities and Transport for London Act 2013 PROVIDED THAT such provision and operation may only take place at locations first agreed by the Participating Council which is the highway authority for the affected road (or, where it is the highway authority for the affected road, TfL) AND PROVIDED FURTHER THAT any grant or other monies provided to LCTEC for the purpose of providing and/or operating charging apparatus for electrically powered motor vehicles shall be applied to any such provision and operation by LCTEC which shall be at no cost or expense to the Participating Councils unless first agreed.
 - (b)(ii) The exercise of powers under Section 1 of the Localism Act 2011 for the purposes of giving effect to the joint exercise of functions under Section 16 of the London Local Authorities and Transport for London Act 2013 by LCTEC, or otherwise for the purposes of supporting and facilitating the Participating Councils and/or TfL in their exercise of those functions, including but not limited to oversight and management of the arrangements
 - (b)(iii) For the purposes of exercising functions under (b)(i) and (b)(ii) above LCTEC may appoint TfL to act as its agent (subject to Part 7 of this Agreement applying to any such appointment, including its termination) and FOR THE AVOIDANCE OF DOUBT the functions referred to at (b)(i) and (b)(ii) above may be exercised directly by LCTEC or pursuant to a contract or Service Level Agreement between LCTEC and TfL (or between LCTEC and another appropriate body) or through such servant, agent or contractor as LCTEC may appoint.
- 3.9 The amendments to Part 3(D) are not minor variations for the purposes of Clause 15 of the LCTEC Governing Agreement, but are made by the procedure set out in Paragraph 3(D) 1 of the LCTEC Agreement, which provides an alternative process for delegating the exercise of functions to the joint committee without requiring a separate formal variation agreement to be agreed by each authority before the delegation to the joint committee is effective. The procedure was adopted under an earlier formal variation to the Governing Agreement with the consent of all the London local authorities and TfL, and provides that the functions may be delegated by each London local authority to operate under the existing terms of the Governing Agreement "subject to consultation with the Participating Councils and the written agreement of each Participating Council".
- 3.10 Given the uncertainties surrounding the establishment of a London-wide delivery arrangement, mainly due to funding constraints, LCTEC may not choose to utilise this delegation. However, given the possibility that it may be the preferred route for LCTEC to undertake both the strategic oversight and operational management role for the boroughs and TfL, and considering the time required for all 33 local authorities to formally agree to this variation, officers from London Councils seek to investigate the feasibility of a delivery arrangement in parallel with the process of securing formal agreement to the variation of the LCTEC Governing Agreement.
- 3.11 Officers from London Councils are currently developing a detailed business case which will be reported to LCTEC for future consideration before any decision is taken to use the delegated authority. The

boroughs would also need to agree any delegated action which resulted in additional cost or expense being passed to them.

4. Operational Implications

- 4.1 If LCTEC's Governing Agreement is amended, it will allow any individual local authority to subsequently decide if they want LCTEC to have any involvement in their electric vehicle charging infrastructure. Individual boroughs will need to opt into any delivery agreement that is created by LCTEC i.e. it will be optional to join, not mandatory.
- 4.2 London Councils have estimated that their delivery partnership model could cumulatively save London's local authorities up to £30 million over a 10-year period through scale of economy and efficiency gains². The delivery partnership is also likely to result in cost savings for Islington Council due to less officer time being dedicated to the management of electric vehicle infrastructure.
- 4.3 The objectives of the LCTEC delivery partnership³ are:
 - Provide and manage all installations and maintenance, coordinating all stakeholders and processes to agreed service standards
 - Provide a single point of contact for ULEV owners and operators that will provide advice on what infrastructure is suitable and available for the customer needs, and promote the availability of charging infrastructure
 - Agree a design specification with councils and ensure installations meet those standards and analyse the market for new ideas that meet those design standards
 - Develop a sustainable funding model that in the long term funds the installation of charging infrastructure without the need for public subsidy
 - Manage a membership system and bookings, including using smart allocation of spaces and pre-booking apps
 - Manage back office functions once infrastructure is installed, including maintenance, to deliver a simple and straightforward user model in residential areas
- 4.4 Although the exactly roles and responsibilities of LCTEC's delivery partnership are still being investigated, one of the key roles is likely to be the creation of a single Pan-London customer interface for users of charging points vested into the partnership. The creation of such an interface would benefit residents by enhancing customer service and simplifying payment methods.
- The delivery partnership network is intended to complement London's existing commercial networks such as Source London and POLAR. LCTEC's delivery partnership is likely to cover public charge points owned by local authorities, rather than charge points owned and managed by private companies or land owners. Although the majority of Islington's public charging points are currently operated and managed by 3rd parties, these charging points can be transferred back into Council ownership at the end of the concession contract (typically 5- 8 years). This would allow the Council to take full advantage of the LCTEC delivery partnership in the future, if it the council so wishes. Any new charging points can also be procured in a way to ensure they are compatible with a future LCTEC delivery partnership.
- 4.6 If the delivery partnership were to take an involved role in the procurement, delivery and operation of charging points, it could also help to reduce the end costs for Islington residents who use the charging points. This would help ensure that charging points are affordable so that no one is excluded on grounds of affordability.
- 4.7 The delivery partnership would not take control away from boroughs over the location of new charge points. Similarly, the partnership would not take control or ownership of charge point assets away from boroughs.

² As outlined in a London Councils presentation to Council officers on 04 July 2018

³ As outlined in the London GULCS funding bid, October 2015

4.8 If the delivery partnership were to be responsible for the installation and operation of charging points, it may need to apply for planning permission for new charging points⁴. However, this will be dependent on the exact responsibilities of the delivery partnership and the detail of any contractual arrangements.

5. Organisational and Political Implications

- 5.1 In order for the LCTEC Governing Agreement to be amended, it requires all London local authorities to agree to the change. In other words, only if all boroughs agree to the change can LCTEC have a role in electric charging point administration in one or more boroughs. Therefore, if Islington Council does not agree to the proposed changes, it would prevent other boroughs from taking advantage of the 'offer' from London Councils to help deliver and manage their electric charging infrastructure. Conversely, no individual local authority is under any obligation as a result of agreeing to the proposed amendment to the LCTEC Governing Agreement.
- 5.2 The precise details of what the partnership may look like are still being developed by London Councils, and they are developing a business case in parallel with seeking a change to the Governing Agreement.
- 5.3 The Council has some concern about the lack of specific details about the delivery partnership. However, it is considered that this concern is mitigated by the fact that Islington Council is not obliged to join any future delivery partnership if it is not satisfied with the specific arrangements. The legal implications of signing this agreement have been considered carefully and there is no risk of financial or any other disadvantage to the Council as a result of agreeing to the proposed amendment to the LCTEC Governing Agreement.
- 5.4 The Council also has some reservations about the likelihood of the delivery partnership being successfully established. This concern is due to uncertain funding models, the delays that have already occurred to the GULCS project and the recent announcement of a Mayoral Taskforce into electric vehicle infrastructure, which is due to publish a delivery plan in 2019 with recommendations around how, when and where to increase London's electric vehicle infrastructure up until 2025.
- 5.5 The design, procurement, maintenance and customer management of electric vehicle charging points is becoming an increasingly complicated and specialised task that would benefit from more centralised planning and consistency across London.
- 5.6 Given that the demand for electric vehicle charging infrastructure is set to continue in the foreseeable future, it is considered that there could be benefits to both Islington Council and Greater London as a whole if there was one single organisation representing individual boroughs with responsibilities for public electric vehicle charging infrastructure.
- 5.7 If the Council were to opt into London Councils' delivery partnership in the future, it could potentially result in cost savings to the Council. There could also be benefits to residents of Greater London who would be presented with a single point of contact for customer service.

6. Financial Implications

6.1 There are no direct financial implications arising from the recommendations in this report. The boroughs participating in LCTEC, including Islington, would need to agree to any delegated action resulting in additional cost or expense being passed on to London local authorities.

7. Legal Implications

7.1 In accordance with Section 101(5) of the Local Government Act 1972, two or more local authorities may discharge any of their functions jointly. Where arrangements are in force for them to do so, they may also arrange for the discharge of those functions by a joint committee of theirs. These powers enable the Council to delegate functions to LCTEC.

⁴ See - Part 12, Class A, of the General Permitted Development Order 2015

7.2 The proposed delegation of functions to LCTEC set out in paragraph 3.8 of this report is required to be approved by full Council as those further functions include non-executive functions.

8. Environmental Implications

- 8.1 London is currently suffering from high pollution levels which are causing significant human health and environmental issues. Approximately 50% of London's air pollution comes from road transport⁵ and electric vehicles offer the opportunity to significantly reduce this source of air pollution. Measures that encourage people switching from existing petrol and diesel vehicles to electric vehicles will help to reduce this source of air pollution.
- 8.2 The proposed changes to the LCTEC Governing Agreement do not involve any commitment to the installation of additional electric vehicle infrastructure (since it is merely a potential change in the administration or management of charging point infrastructure). However, the proposed delivery partnership may result in a more efficient method of installing and operating London's public electric vehicle charging network, thus indirectly helping to increase uptake of electric vehicles and leading to increased environmental benefits.

9. Resident Impact Assessment

- 9.1 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 9.2 There are not considered to be any equality implications arising from the recommendations of this report. A Resident Impact Assessment has not been completed because it is not considered applicable to the proposed amendment to the LCTEC Governing Agreement. However, equality implications will need to be specifically considered at the appropriate time in the context of any individual actions proposed by LCTEC.

10. Reason for recommendations

10.1 Approving the further delegations to LCTEC will make it possible for London Councils to develop a London-wide delivery partnership for electric vehicle charging infrastructure. Such a partnership has the potential to improve the efficiency of rolling out and managing out of electric vehicle charging infrastructure. The delivery partnership is likely to benefit both Islington Council and end-users of electric vehicle charging points.

Appendices

- Appendix A LTEC Governing Agreement (Consolidated Version), 13 December 2001
- Appendix B LCTEC Meeting Report (Item 12), 15 June 2017

Background Papers

None

⁵ Transport for London - <u>Understanding the Health Impacts of Air Pollution in London</u>, July 2015

Final report clearance:

Signed by

Executive Member for Transport and Environment Date: 11.9.18

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