



London Councils' Transport and Environment Committee

Dockless Bicycles – Londonwide Byelaw

Item No: 14

Report by: Mike Beevor

Job title: Senior Policy Manager, TfL

Date: 13 June 2019

Contact Officer: Katharina Winbeck

Telephone: 020 7934 9945

Email: Katharina.winbeck@londoncouncils.gov.uk

Summary:

This report updates TEC on the proposed pan-London parking byelaw for the regulation of dockless bicycle hire schemes in London. The report asks TEC to agree to start the process of amending the TEC agreement to delegate the boroughs' functions relating to making the pan-London byelaw to TEC.

Recommendations: Members are asked to:

1. Note the report
2. Agree to consult on and seek written agreement from all London local authorities and TfL to amend the LCTEC agreement as outlined in paragraph 10.

Overview

1. TEC has previously 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.
2. Controlling bike fleets would be achieved by Boroughs using existing powers to designate parking places for dockless bikes, and (following the necessary delegation of powers and subject to the byelaw making procedures) TEC promoting a pan-London bye-law on Boroughs' behalf to prohibit bike operators from parking dockless bikes other than at approved parking places.
3. At the TEC meeting on 21 March, the Committee was informed that dockless bike operators had been briefed on the outline approach, and discussions between TfL, London Councils and Borough Officers were under way to ensure the draft bylaw provided the right controls, and sufficient scope to enable boroughs to retain control of how schemes were managed locally.

Dockless market update

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 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.

As such there is likely to be an ongoing need to manage dockless bike sharing schemes, and boroughs' concerns regarding the impacts of inconsiderate parking of dockless bikes remain - including the impacts on the comfort and convenience of other highway users.

Byelaw Update

5. A draft byelaw has now been shared with borough officers, and detailed discussions have been held on its precise wording. While these discussions have yet to conclude, in headline terms, the draft text:
 - Defines several terms 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 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; and
 - Sets a penalty for a dockless operator committing the offence.
6. The drafted wording covers dockless bikes and e-bikes and could apply to electric kick scooters or other micromobility vehicles. Local issues, such as how many or how few parking places to approve and where they should be located, are all left for individual

authorities to decide depending on their local circumstances. It is envisaged that approved spaces would not be exclusive to specific operators, but would be open to other dockless companies, to facilitate journeys across borough boundaries. Points of detail on the final wording are now being considered, and several additional areas of work are being developed, for the byelaw to give rise to a viable operational framework for dockless bike sharing in London.

7. The additional work, which is to be developed in partnership with borough officers, will cover:
 - 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 you can and can't park dockless vehicles;
 - Proposed procedures for designating or approving parking spaces; and
 - How boroughs may charge operators for the use of the parking spaces they make available.

TfL is also keeping officials in central Government informed on progress.

Amending the TEC Agreement

8. TEC resolutions to date together with detailed feedback received from borough officers indicates broad consensus regarding the proposed pan-London approach and the Byelaw proposal in principle.
9. It is not considered practicable for the same Byelaw to be made, by 33 London boroughs. The making of one Byelaw across all the London boroughs would be more appropriate and 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 the TEC constitution (Governing Agreement, dated 13 December 2001 (as amended)) to be varied.
10. 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)

- a. 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”. (An updated copy of any amended Part 3(D) must also be provided). Past experience shows that gaining consent in this way from all London local authorities can take time. It is therefore proposed that the process commence now.

Proposal and Next Steps

11. The full wording of the byelaw has not yet been finalised, and the work mentioned above (that is to be undertaken in partnership with borough officers) is ongoing.
12. The draft byelaw will need to be consulted upon and will need to include
 - (i) the draft byelaw
 - (ii) an assessment of the regulatory burden and whether it is proportionate, informed by consultation with affected persons; and
 - (iii) a statement assessing the impacts of the proposal and the proportionality of the regulatory burden.
13. It is proposed that in addition to the process of delegation of powers proposed in this report, a further report is made to TEC in October for
 - (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.

Borough officers and legal teams will be given sight of the proposed final documents prior to TEC being asked to agree the above, but it is nevertheless recommended that the consultation phase of the delegation process commence now, given the potential time required.

Recommendations: The Committee is asked to:

1. Note the report
2. Agree to consult on and seek written agreement from all London local authorities and TfL to amend the LCTEC agreement as outlined in paragraph 10.

Financial implications for London Councils

14. To be discussed in light of any further legal support that may be required.

Legal implications for London Councils

15. All implications are contained in the body of the report.

Equalities implications for London Councils

16. Addressing inappropriate parking of dockless bikes on the highway in a manner which causes inconvenience or disruption to highway users 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.