

For General Release

REPORT TO:	CABINET 16 December 2019
SUBJECT:	Pan London Dockless Vehicle Hire Byelaw
LEAD OFFICER:	Shifa Mustafa, Executive Director of Place Heather Cheesbrough, Director of Planning & Strategic Transport
CABINET MEMBER:	Councillor Stuart King & Councillor Paul Scott Cabinet Member for Environment, Transport & Regeneration (Job Share)
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

Include here a brief statement on how the recommendations address one or more of the Council's Corporate Plan priorities:

[Corporate Plan for Croydon 2018-2022](#)

Key themes:

- Everyone feels safer in their street, neighbourhood and home
- A cleaner, more sustainable environment
- An excellent transport system, that is safe, reliable and accessible to all

A well managed dockless cycle hire in London as proposed under the new byelaw has the potential to support the Corporate Plan aims to contribute to a flourishing society, particularly promoting good health and wellbeing, and to shape outstanding environments by enhancing connectivity to the City.

The delivery of a dockless cycle hire scheme is an objective in the Croydon Local Implementation Plan 3 and Croydon's Cycling Strategy.

FINANCIAL IMPACT

There will be no financial impacts or implications from delegating authority to London Councils to create the Byelaw. Once the Byelaw is in place there may be financial benefits for the council through charging dockless cycle hire operators for use of the public highway however this will be considered and determined at a later date.

FORWARD PLAN KEY DECISION REFERENCE NO. not a key decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is asked to recommend to Full Council that it resolves to:

- 1.1 Agree to delegate authority to London Councils Transport and Environment Committee to make a byelaw to regulate dockless vehicles in Croydon.
- 1.2 Authorise the Executive Director of Place to sign any necessary documents to give effect to Recommendation 1.1 above.

2. EXECUTIVE SUMMARY

- 2.1 The regulation of dockless vehicle hire schemes falls outside existing legislative frameworks and the London Borough of Croydon does not have powers to manage or prevent dockless cycle hire schemes from operating in the borough.
- 2.2 London Councils' Transport and Environment Committee (TEC) has proposed making a pan-London Dockless Vehicle Hire Byelaw on behalf of all London borough councils that will prohibit dockless bikes and similar hire vehicles being parked anywhere other than at approved parking spaces across Greater London.
- 2.3 The byelaw would apply to all dockless hire vehicles, including e-scooters and other micromobility vehicles that might become legal to ride on the carriageway in future.
- 2.4 It is not considered practicable for the same byelaw to be made independently by 33 London local authorities and therefore London Councils' Transport and Environment Committee is seeking authority from all London Local Authorities (and Transport for London) to amend the London Councils' Transport & Environment Committee's Governing Agreement to enable it to make a pan-London byelaw on the authorities' behalf.
- 2.5 This report asks Cabinet to recommend to Full Council that it resolves to delegate to London Councils' Transport and Environment Committee (TEC) the authority to exercise the London Borough of Croydon's byelaw-making function for the purpose of regulating dockless vehicles on the highway and/or public places by way of an addition to the existing London Councils' Transport and Environment Committees' Governing Agreement.
- 2.6 The draft wording of the byelaw is shown in appendix A however Cabinet and Full Council are not being asked to approve the final wording of the byelaw which will be done at a later stage by London Councils TEC (the Cabinet Member for Environment, Transport and Regeneration sits on this committee).

- 2.7 By agreeing this delegation, the Council will be taking action alongside local authorities across London to ensure the benefits of cycling can be enjoyed by more people, whilst managing the operation of dockless cycle hire companies in a more co-ordinated and impactful way.

3. DETAIL

- 3.1 Croydon Council is committed to supporting residents and visitors to adopt sustainable transport options to both allow them to enjoy the health benefits this can bring, and to reduce air pollution produced by motor traffic in the borough. Dockless bikes can play an important role in helping more people to cycle and reduce private car trips.
- 3.2 'Dockless bike hire' is a generic term for a short-term cycle hire scheme, similar to Santander Cycles, but with no on-street docking infrastructure. Dockless bike hire has been operating in London since autumn 2017.

Why a byelaw is needed

- 3.3 Since 2017, when dockless bike hire started in London, the operators have mainly worked in the London Boroughs by separate agreements.
- 3.4 Dockless bikes, when left or parked inappropriately, have the potential to cause hazards and obstructions on the highway with blind and partially sighted being especially impacted.:
- 3.5 Local authorities currently have no legal powers to either prevent dockless bike companies from operating in their borough, or to do so in any particular way. There is the [Transport for London](#) Dockless Bikeshare Code of Practice which asks operators to work in boroughs only where they have agreement with the local authority. However, it is not legally binding. The Highways Act does give highway authorities the power to remove cycles if they are considered an obstruction of the highway. However, it is not considered sufficient to manage the large scale dockless bike hire schemes that are now in operation in parts of London.
- 3.6 Earlier in 2019 Croydon Council signed a Memorandum of Understanding (MoU) with Lime UK to deploy around 60 electric dockless bikes in the borough over the summer as part of a South London pilot project. In October 2019 Lime made a decision to withdraw their bikes from across South London for the winter period with the intention of reviewing whether to return in 2020 dependent upon the outcome of the pan-London byelaw.
- 3.7 Croydon Council has been approached by several other bike hire operators to discuss the potential to launch within the borough. However, none have yet made a formal request to enter into a MoU and deploy cycles. The prospect of several different operators vying to operate in the borough emphasises the need for the pan-London byelaw.

Policy context

- 3.8 The Mayor's Transport Strategy (MTS) was published in March 2018 and sets out the strategic direction for Transport in London over the next two decades. The MTS seeks to deliver the integration of land use and transport, and the provision of a robust and resilient public transport network, with an ambitious aim to reduce Londoners' dependency on cars in favour of increased walking, cycling and public transport use.
- 3.9 The key overarching framework for the new MTS is the 'Healthy Streets Approach'. This policy puts people and their health at the centre of our decision making, helping everyone to use cars less and to walk, cycle and use public transport more. The MTS sets an overarching target that 80 per cent of all trips in London will be made by walking, cycling or public transport by 2041. The current figure for London is 63 per cent and in Croydon it is 49 per cent.
- 3.10 Croydon's Local Implementation Plan (LIP3) was approved by the Mayor of London in April 2019. This document commits Croydon Council to introduce a successful dockless hub based bike hire scheme that will include electric bikes. The reasons for doing so include improving accessibility in areas in the south of the Borough that have hillier terrain and poorer public transport coverage.
- 3.11 Croydon's Suburban Design Guide Supplementary Planning Document (SPD2) identifies a dockless and e-bike bike hire scheme as a recommended project to support the intensification of the suburbs.
- 3.12 The Croydon Majority Political Group 2018 Manifesto included a commitment to 'explore ways to introduce a dockless bike hire scheme in Croydon'.

The Draft Byelaw

- 3.13 The draft byelaw text is available in Appendix A, detailed discussions have been held on it's wording but these are yet to conclude. Full Council is not being asked to approve the final wording of the byelaw which will be done at a later stage by London Councils TEC. The Cabinet Member for Environment, Transport and Regeneration sits on this committee.
- 3.14 London Councils can only send the draft version of the byelaw to the Secretary of State for approval once all boroughs have submitted their delegations.. Following this, London Councils will need to hold a public consultation on the text of the byelaw and incorporate feedback from the Secretary of State . This means that the wording of the byelaw could potentially change.
- 3.15 The final version of the dockless byelaw (after consultations with central government and the public) will come back to Full TEC for a final approval. This is where each London borough will approve the final wording of the byelaw (via Croydon's TEC member).
- 3.16 The byelaw defines several terms used in the draft byelaw currently undefined in legislation (e.g. a dockless operator). It 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.

- 3.17 The London Councils' Transport and Environment Committee and Transport for London envisage that dockless parking bays would not be exclusive to specific operators but would be open to any byelaw-compliant dockless company wishing to use them. The byelaw has been drafted in this way because:
- a. users want to make journeys irrespective of borough boundaries, meaning that separate borough by borough arrangements and operator selections are not conducive to encouraging cycling; and
 - b. the legislative tools used to draft the byelaw text did not necessarily provide powers for boroughs to regulate operators directly.
- 3.18 The draft byelaw wording covers dockless cycles and e-bikes and could also apply to electric kick scooters or other 'micromobility' vehicles should they become legal and available for hire on London's streets.
- 3.19 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. A local authority could also decide not to allocate parking on streets they manage.
- 3.20 London Councils' Transport and Environment Committee is also looking to clarify and strengthen legal and operational aspects of the byelaw through drafting supporting byelaw text or guidance.

Delegation of powers to London Council's Transport and Environment Committee.

- 3.21 At its meeting on 21 March 2019, London Councils' Transport and Environment Committee 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, London Councils' Transport and Environment Committee agreed that it is a suitable body to undertake both the promotion and making of such pan-London byelaw and an associated Dockless Vehicle Hire Operator Code of Practice.
- 3.22 The reason the agreement needs to be amended, is because the local authorities' byelaw making function enabling the making of a pan-London byelaw for dockless vehicle parking is not currently delegated to London Councils' Transport and Environment Committee and the Joint Committee therefore does not currently have the authority to undertake this function on behalf of the London local authorities.

3.23 The Report seeks 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 in the London Council's Transport and Environment Governing Agreement dated 13 December 2001 (as amended) by 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.

3.24 The proposed delegation is highly restricted. The delegation is not a transfer of the Council's powers in respect of dockless bikes parking to London Councils' Transport and Environment Committee. It would only allow the Committee to make and promote a pan-London byelaw with associated Code of Practice. (There was no provision for this included when the London Councils' Transport and Environment Committees' Governing Agreement was first established.)

3.25 Signing the amendment to the Governing Agreement does not mean any loss of control of the Council's assets or powers, and the Council has been assured by the London Councils' Transport and Environment Committee that the extent of dockless vehicle parking and the enforcement of the byelaw (including prosecution) in Croydon would remain a matter for local decision-making and control, at the discretion of the Council.

Next Steps

3.26 With the byelaw in place, the next steps for the Council would be to consider and undertake the following:

1. Identify and agree sites for approved dockless hire vehicles to park in (dockless vehicle hire hubs).
2. Whether the Council would create a new permit system for dockless vehicle hire operators or continue to use MoUs.
3. Determine the fee level/mechanism to operators for the permit or Memorandum of Understanding.
4. How the Council's penalty system would operate.

3.27 The above workstreams would be taken forward in consultation with the Cabinet Member for Environment, Transport and Regeneration (Job Share).

4. CONSULTATION

4.1 There has been no specific consultation on this matter and there is no statutory requirement to undertake any at this stage. However, as part of the LIP3 pre-consultation process an online engagement campaign was undertaken asking residents and visitors to complete an online survey giving their views on transport in Croydon in order to shape the LIP3. The survey was active until the end of September 2018 and over 1,000 people responded to the survey. A summary of results revealed that:

- 74% stated that they are concerned about air quality.
- 72% agreed that traffic levels need to be lower.
- 40% agreed they would cycle more if conditions were right, with 43% disagreeing.
- 61% would travel by car less if the alternatives were better.
- 78% agreed that less vehicles would mean better air quality

4.2 The feedback and responses from both the workshops and the online survey were considered when developing the LIP3 Programme of Investment and Delivery Plan which includes the implementation of a dockless bike hire scheme.

5 PRE-DECISION SCRUTINY

5.1 There has been no previous Scrutiny Meeting on this matter.

6 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

6.1 There are no financial implications or risks in relation to the delegation to create the byelaw. current time. £20k of LIP funding has been allocated in 2020/21 to cover the cost of officer time spent on work related to the pan-London byelaw and delivering the dockless vehicle hire parking hubs in the borough. The costs associated with designating and marking out parking areas and the scope for charging for parking permits is currently being explored.

6.2 The MoU with Lime did not include any form of payment or financial contribution.

6.3 Once the pan-London byelaw is in place then there will be consideration of the level of fee to charge operators for using the dockless bike parking hubs. At the very least this will cover the cost of implementing the hubs so there will be no negative financial impact on the council. It is likely that there will be a positive financial benefit, however the exact level of fee will be subject to further discussion with neighbouring boroughs and the operators.

6.4 Dockless operators breaching the byelaw will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500), reducing the likelihood of inappropriate parking. At this stage it is impossible to predict how many fines might be issued.

6.5 **The effect of the decision**

Approval of the delegated authority to London Councils will allow us to proceed with identifying and implementing dockless vehicle hire parking hubs. This will allow us to then consider charging a fee for use of these hubs. We will also be able to start issuing penalty fines to operators for bikes that are parked outside of these hubs.

6.6 **Risks**

No known risks associated with this decision.

6.7 **Options**

Do nothing and situation remains the same. We have no powers to manage and enforce dockless bike operators and no powers to issue penalty fines and charge for use of hubs.

6.8 **Future savings/efficiencies**

There may be potential in the future to secure revenue and income from operators if they are implemented within the borough.

Approved by: Lisa Taylor Director of Finance, Investment and Risk and s151 Officer

7. LEGAL CONSIDERATIONS

7.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that:

7.2 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 London Councils' Transport and Environment Committee

7.3 The proposed delegation of functions to London Councils' Transport and Environment Committee set out in paragraph 3.18 to 3.22 of this report is required to be approved by Full Council as those further functions include non-executive functions.

7.4 For London Councils' Transport and Environment Committee to be able to make the byelaw the Governing Agreement needs to be amended as local authorities' functions relating to the making of a pan-London byelaw for regulating dockless vehicles are not currently delegated as functions of London Councils' Transport and Environment Committee. The proposed delegation would allow London Councils' Transport and Environment Committee to make and promote a pan-London byelaw to regulate dockless vehicles on the highway and/or public places.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer

8. HUMAN RESOURCES IMPACT

- 8.1 Further discussion within the Place Department is required as to how enforcement of the dockless vehicle hire parking hubs will be undertaken and whether this will need additional staff resources. The level of resources required is expected to be minimal and could be absorbed into existing enforcement work undertaken by different services within the Council. Any additional financial costs associated with enforcement would need to be covered by the fees charged to operators.
- 8.2 Following further discussions if there is any HR impact these will be managed under the Council's policies and procedures.

Approved by: Jennifer Sankar, Head of HR Place & GSE on behalf of Sue Moorman, Director of Human Resources

9. EQUALITIES IMPACT

- 9.1 The Council has a statutory duty to comply with the provisions set out in the Equality Act 2010. In summary, the Council must in the exercise of all its functions, "have due regard to" the need to the need to comply with the three arms or aims of the general equality duty.
- 9.2 The introduction of the byelaw and allocation of dedicated parking areas will help mitigate negative adverse impacts for vulnerable road users from dockless bikes obstructing the public footway (e.g. visually impaired, wheelchair users). This is consistent with the public sector equality duty.
- 9.3 A statement assessing the impacts of the proposal and the proportionality of the regulatory burden will be prepared prior to the presentation of the byelaw to the Minister of State.

Approved by: Yvonne Okiyo Equalities Manager

10. ENVIRONMENTAL IMPACT

- 10.1 This decision will support the delivery and expansion of dockless bikes and electric bike hire schemes within the borough which will support an increase in cycling and a shift from private car use to low emission and sustainable modes. Therefore this scheme will have a strong positive environmental impact.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 This decision will support the crime and disorder reduction agenda by enabling greater control and management of dockless bike and vehicle hire operators and where they can and cannot park their bikes.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 By agreeing this delegation, the Council will be taking action alongside boroughs across London to ensure the benefits of cycling can be enjoyed by more people, whilst managing the operation of dockless bike and vehicle hire companies in a more co-ordinated and impactful way.

13. OPTIONS CONSIDERED AND REJECTED

- 13.1 Not delegating powers to London Councils Environment and Transport Committee would impact the ability to effectively regulate dockless vehicle hire London-wide and would leave each London authority seeking to address the issues piecemeal. There are currently no other legislative options to effectively regulate dockless vehicle hire available or in development.

14. DATA PROTECTION IMPLICATIONS

- 14.1 The decision requested in this report relates to delegating authority to London Councils to create a pan-London byelaw on behalf of all London Boroughs. There will be no processing of personal data and no data protection implications related to this decision.
- 14.2 The Director of Planning and Strategic Transport agrees that there are no data protection implications and there will be no processing of personal data involved in this decision.

Approved by: Heather Cheesbrough, Director of Planning and Strategic Transport.

CONTACT OFFICER:

Heather Cheesbrough – Director of Planning and Strategic Transport
Ian Plowright, Head of Strategic Transport
Ben Kennedy, Strategic Transport Manager (Report Author)

APPENDICES TO THIS REPORT

Appendix A – London Councils TEC Report on Dockless Bikes Byelaw October 2019
Draft Greater London Dockless Byelaw

Appendix B – London Councils TEC Delegation Letter

BACKGROUND PAPERS:

Croydon LIP3: <https://www.croydon.gov.uk/transportandstreets/policies/third-localimplementation-plan>