

Committee(s)	Dated:
Streets and Walkways Sub Committee – For comment Planning and Transportation – For decision	4 September 2018 11 September 2018
Subject: Dockless Cycle Hire Review	Public
Report of: Carolyn Dwyer, Director of the Built Environment	Streets and Walkways – For comment
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Summary

Dockless cycle hire has been operating in London since autumn 2017, with operations based in several boroughs, including four that neighbour the City of London – Camden, Hackney, Islington and Southwark.

In accordance with current policy (adopted in October 2017), the City Corporation has arrangements in place with two operators - ofo and Mobike. Both operators have agreed not to place bikes directly on City streets, but users can end rides in the City and those bikes are then available for onward hire. These arrangements are voluntary; dockless cycle hire schemes do not require the express consent of the City Corporation to operate on City streets.

In recognition of the lack of regulatory powers available to local authorities, London Councils are exploring the potential for a London-wide byelaw that would enable the City Corporation and boroughs to licence dockless cycle hire operators.

This report proposes that the current policy on dockless cycle hire be continued until the City of London Transport Strategy is adopted early next year, at which point the policy will be reviewed and updated. The report also proposes adopting additional measures to improve the management of dockless cycle hire, including Street Environment Officers proactively removing bikes in accordance with the City Corporation's Street obstruction policy.

Recommendation(s)

Members are asked to approve:

- The continuation of the current dockless cycle hire policy until the Transport Strategy is adopted and the policy updated accordingly.
- The adoption of additional management measures for dockless cycle hire operations during this period.
- Support to London Councils in their review of the potential for a London-wide byelaw to regulate dockless cycle hire.

Main Report

Background

1. 'Dockless cycle hire' is a generic term for a short-term cycle hire scheme, similar to Santander Cycles, but with no on-street docking infrastructure. The schemes are commercially operated and do not require any public funding or subsidy.
2. The fact that no on-street docking infrastructure is required offers users more flexibility and avoids the risk of not being able to end a ride due to a docking station being full. It also represents a challenge, as users of dockless cycle hire can leave bikes anywhere, potentially obstructing pavements.
3. Two operators (of0 and Mobike) have launched operations in boroughs that neighbour the City of London – Camden (of0), Hackney (of0), Islington (of0 and Mobike) and Southwark (of0 and Mobike). It is expected that both operators will expand operations to other neighbouring boroughs in the near future.
4. In October 2017, Members of the Planning and Transportation Committee agreed to adopt a policy on dockless cycle hire operations within the Square Mile (see Appendix 1 and background papers). The policy allows dockless cycle hire to operate on City streets subject to conditions. These include adherence to TfL's Code of Practice (Appendix 2) and a requirement that operators do not directly place bikes on City streets.
5. of0 and Mobike have been operating in the City on this basis since November 2017. To date, both of0 and Mobike have demonstrated a willingness to engage positively with the City Corporation and to adhere to our adopted policy and TfL's Code of Practice.

City of London powers to regulate dockless cycle hire

6. The Comptroller and City Solicitor has confirmed the legal advice provided in the report of 21 May that dockless cycle hire schemes fall outside the existing legislative framework and the City Corporation does not have powers to prevent dockless cycle hire schemes from operating in the City (see Appendix 3 for more details). Under current legislation, operators do not require consent or a licence from the local authority to operate as no infrastructure is placed on the highway. Bikes may be removed if they cause a nuisance, obstruction or danger. Dockless cycle hire does not fall under the definition of street trading and officers are of the view that it is doubtful that definitions of "waste" or "litter" in legislation apply.
7. The lack of powers to licence dockless cycle hire operators has been recognised by Transport for London and London Councils. They have proposed introducing a London-wide byelaw to establish a regulatory framework for dockless cycle hire. While the details are still to be decided, the byelaw would effectively create an offence of operating a cycle hire scheme without a licence. The City Corporation and the boroughs would then be able to grant consent following local assessment. It is considered that a London-wide regime is required because

dockless cycle hire operates across borough boundaries, meaning that separate borough by borough arrangements are unlikely to be effective.

8. Creation of a London-wide byelaw would require the City Corporation and the boroughs to delegate their byelaw-making functions on this matter to London Councils' Transport and Environment Committee (TEC). At their 14 June 2018 meeting, TEC agreed in principle that a draft scheme for a London-wide byelaw should be prepared and delegations from the City Corporation and boroughs sought to enable the byelaw to be progressed. It is anticipated that it could take 6 – 12 months for a draft byelaw to be prepared and the delegations to the TEC to be made. Any delegation to TEC would be the subject of a further report to Planning and Transportation Committee.
9. Government has acknowledged that there are no specific powers relating to dockless cycle hire schemes and has expressed a willingness to explore the need for a national standard on dockless cycle hire (Appendix 4). However, this does not appear to be a priority issue for the Department for Transport and any national standard would likely be similar to TfL's Code of Practice. Furthermore, the government has indicated to TfL that there is no scope in the short/medium term for legislation on this issue. The byelaw making powers outlined above are therefore being explored in the interests of an earlier measure.
10. While not being able to prevent dockless cycle hire schemes from operating, the City Corporation can remove bikes that are deemed to be causing an obstruction, danger or nuisance. These powers are consistent with the City Corporation's statutory duty to assert and protect the rights of the public to use and enjoy the highway, our network management duty and our duty to secure the convenient and safe movement of traffic (including pedestrian traffic).
11. If a bike is deemed to be causing an obstruction, danger or nuisance, the City Corporation's Street Environment Officers (SEO) currently manage dockless cycle hire bikes as follows:
 - a. As the owner of the bikes is known, any bike causing a nuisance or obstruction will be reported to the operator for removal within 90 minutes of notification. After this time bikes will be removed by the City Corporation without further notice.
 - b. If a bike is deemed to be causing a danger (including a danger caused by obstructing the view) to users of the highway it will be removed without notice (under Highways Act 1980 s149).
12. The operator is informed when a bike has been removed and is given the opportunity to recover the bike, with operators charged a fee of £82.58 on collection to cover the cost of removal.

Usage and operational approach

13. ofo and Mobike are experiencing growing membership and use, both London-wide and in the City. There are currently approximately 3000 dockless bike trips a month to, from and within the Square Mile. It is expected that use will increase as more boroughs choose to allow schemes to operate.

14. Both ofo and Mobike have staff patrolling the City and neighbouring boroughs who can respond to requests to remove bikes. These staff also reposition bikes to move them alongside cycle stands to avoid obstructing pavements. When necessary, bikes are also redistributed back to a host borough.
15. ofo and Mobike encourage considerate parking through in-app messaging and advice to users. Discussions with operators have highlighted the difficulty of penalising users for parking in an inappropriate or inconsiderate location due to the limited accuracy of GPS systems. More accuracy can be achieved by using Bluetooth sensors to record when bikes are left in preferred parking locations. Operators will want certainty of ongoing permission to operate before investing in this technology, as this requires installation of sensors in set locations and the ongoing maintenance of these sensors. Mobike have recently introduced a £20 charge for bikes left outside their geo-fenced operations area (with a 100m buffer to reflect GPS accuracy). The City is not covered by this charge as the existing arrangement with Mobike means that the Square Mile is currently part of their operational area.
16. Badly parked bikes undoubtedly bring these schemes into disrepute, regardless of how quickly bikes are rehired or moved, but the evidence so far would suggest that bikes are rehired by customers relatively frequently rather than being moved by the operator themselves. In several cases where a poorly parked bike has been reported to officers, the bike has been ridden away by a customer before the operator has reached the location.
17. To date, requests to ofo or Mobike for bikes to be relocated have been dealt with in a timely fashion and within the target time agreed with the City Corporation, so that the City's SEO or City Police have only had to remove bikes on three occasions since November 2017.

Policy Considerations

18. Dockless cycle hire is a new phenomenon in the UK; but offers a lower-cost and potentially more space-efficient type of cycle hire operation compared with the Santander Cycles scheme. The lack of docking infrastructure means that bikes are much more flexible and can be ridden directly to the hirer's destination.
19. The ease and accessibility of dockless cycle hire for City workers, residents and visitors gives these schemes particular appeal for short trips within the Square Mile or central London, providing an alternative to short taxi, private hire or public transport trips. Usage patterns of dockless cycle hire show that the dockless bikes are well used during the day for trips within the City and central London, as well as for commuting.
20. Good availability of affordable cycle hire is now an important part of the transport mix for any modern city, and dockless cycle hire is likely to be a feature of cycle hire schemes in the future. The City Corporation's forthcoming Transport Strategy will set out what part well-managed cycle hire can play as part of the wider transport agenda. Concerns related to the operation of dockless cycle hire

schemes have not been raised as a significant issue during the public engagement on the Transport Strategy so far.

Proposals

21. It is recommended that the current policy of working with operators is continued until the City of London Transport Strategy is adopted early next year. The policy will then be reviewed and, if necessary, updated to ensure it reflects both the Transport Strategy and the City's statutory powers and duties. This review will form part of a wider review of policy on pavement obstructions. Public consultation on the Transport Strategy will allow any future policy to be informed by the views of residents, workers, visitors, businesses and other stakeholders.

22. It is also proposed that, to reduce the potential for obstruction, the City Corporation's SEOs proactively apply the Street obstructions policy to dockless cycle hire, removing any bikes that are deemed to be causing an obstruction:

- on footways which are narrower than two metres wide
- on footways identified as having a high footfall (such as transport hubs, stations and related pedestrian routes)
- where safe pedestrian movement is interrupted (regardless of the width of the pavement)

23. Further measures to improve the management of dockless cycle hire in the Square Mile prior to the full policy review will include:

- a. Making space in under-utilised City-owned car parks available on a commercial basis to dockless cycle hire operators for storage of bikes to allow more effective operation and removal of bikes from the City's streets.
- b. Working with operators to further encourage considerate parking practices, including through in-app messaging and exploring the potential use of penalties for inconsiderate parking.
- c. Officers will continue to work with operators, SEOs and the City of London Police to gather data on the use and management of dockless cycle hire to inform the review of the current policy. We will ask operators to provide regular data reports, allowing periodic updates to be made to Committee.
- d. Officers will work with Transport for London and London Councils to support the development of a London-wide byelaw to regulate dockless cycle hire operations.

Corporate & Strategic Implications

24. The proposals support the Corporate Plan aims to contribute to a flourishing society, particularly promoting good health and wellbeing, and to shape outstanding environments, by enhancing the physical connectivity of the City.

25. The proposals support the draft Transport Strategy outcome to promote a relaxed cycling experience in the City and enable a more diverse range of people to choose to cycle.

26. There is a reputational risk that the City Corporation may be seen as unsupportive of innovative approaches to enable more cycling if it does not allow people to use dockless cycle hire to travel to and around the Square Mile.

Legal and financial implications

27. Legal Implications - The City Corporation has no powers to remove bikes that are parked on City streets unless they are causing an obstruction, nuisance or danger to the public, and operators do not require consent or a licence from the local authority as no infrastructure is placed on the highway. However, setting out standards for managing the schemes is consistent with the City Corporation's statutory duties referred to in paragraph 10. Further details are set out in Appendix 3.

28. In the event of loss, injury or damage being caused by dockless hire cycles, the person responsible would depend on the circumstances of each case. For example, if a cycle had remained in a dangerous position for days without the highway authority taking steps despite complaints, some liability would be likely to rest with the highway authority. If an accident occurred a few moments after the cycle was left in a dangerous position and the highway authority had no reasonable opportunity to identify and remedy the danger, it is unlikely any liability would rest with the highway authority, and therefore would be more likely to rest with the user and/or operator. In addition, the steps proposed to ensure the safe operation of dockless cycle hire would help demonstrate that the City is taking reasonable measures consistent with its responsibilities.

29. Financial Implications - Accommodating a dockless cycle hire scheme has no direct cost to the City Corporation. Costs may be incurred if the City Corporation has to remove bikes deemed to be causing a danger, nuisance or obstruction from the streets in default of the operator removing them. Storage costs would be incurred in these circumstances. Instances of removals will continue to be monitored and inform reviews of the City's position. Costs will be sought from operators in all instances where they are liable.

Health Implications

30. The proposals would support cycle hire facilities in the City. This will encourage active travel within central London, and potentially shift journeys from short taxi, private hire and public transport trips, with associated benefits to air quality and public health.

Equality Implications

31. The proposals to improve the management of dockless cycle hire and to encourage considerate use/parking of bikes will help mitigate adverse impacts for vulnerable road users (e.g. visually impaired, wheelchair users). This is consistent with the public sector equality duty.

Conclusion

32. Dockless cycle hire operations launched in London in the latter part of 2017 and have steadily increased their presence in inner London boroughs, including operating in Camden, Hackney, Islington and Southwark. More boroughs are expected to launch schemes in the coming months.
33. Given that the City Corporation's express consent to operate dockless cycle hire schemes in the City is not required, the continuation of the current policy is felt appropriate pending the adoption of the Transport Strategy; albeit with additional measures to support the considerate use, enforcement and management of dockless cycle hire by operators. This will allow us to work collaboratively with operators to ensure the best outcome. The City is working closely with TfL, London Councils and other boroughs to develop a London-wide solution for regulating dockless cycle hire as their cross-borough operations mean that separate borough by borough arrangements are unlikely to be effective.

Appendices

- Appendix 1 – City of London Dockless Cycle Hire Policy
- Appendix 2 – TfL Dockless Cycle Hire Code of Practice
- Appendix 3 – Legal implications: Advice from the Comptroller and City Solicitor
- Appendix 4 – Government response to written question on powers to regulate dockless cycle hire

Background Papers

Dockless Cycle Hire – Report to Planning and Transportation Committee, 3 October 2017

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Appendix 1 – City of London Dockless Cycle Hire Policy

As adopted by the Planning & Transportation Committee on 3 October 2017.

The City of London Corporation recognises the role that well-organised dockless cycle hire schemes can play in providing low-cost public access to cycles for short urban journeys and endorses the Dockless bike share code of practice (“the Code”).

Operators are expected to follow the requirements and recommendations of the Code.

While the City of London is likely to be a popular destination for trips undertaken by dockless cycle hire, the street layout and extremely high footfall in the City means that highway in the City is an unsuitable location for dockless cycle hire operations to be based. This means that no operator should directly place cycles on City Corporation highway. Cycles should not be placed on any other land in the City without the consent of the property owner. The City Corporation should be informed in advance of any proposals to base cycles on private property within the City.

The City Corporation will engage with operators wishing to operate dockless cycle hire schemes, and users of the schemes may leave the cycles in appropriate locations on City streets, with these cycles then available for public hire, subject to cycle hire operators’ compliance with the Code and the City Corporation Policy Statement.

Cycles belonging to operators not complying with the Code and causing danger, obstruction or nuisance will be removed by the City Corporation and operators will be liable for costs as set out in the Code.

Operators wishing to run a dockless cycle hire scheme in the City of London should contact the Strategic Transportation team to discuss their proposals.