

<b>Committee:</b> Streets & Walkways Sub Committee – For decision Planning & Transportation Committee – For information	<b>Dated:</b> 30 January 2024 5 March 2024
<b>Subject:</b> General micromobility update and actions for improving dockless bike hire in the City	<b>Public</b>
<b>Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?</b>	9
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>£</b>
<b>What is the source of Funding?</b>	<b>n/a</b>
<b>Has this Funding Source been agreed with the Chamberlain’s Department?</b>	<b>Y/N</b>
<b>Report of:</b> Interim Executive Director Environment	<b>For Decision</b>
<b>Report author:</b> Giacomo Vecia, Senior Strategic Transportation Officer	

### Summary

Micromobility is a term that references transportation using lightweight, low speed vehicles such as bicycles or scooters, especially electric ones, that may be borrowed as part of a self-service scheme in which people hire vehicles for short-term use.

‘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. 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.

In 2020 dockless cycle hire operators Lime and HumanForest (now Forest) were given approval to operate in the Square Mile as a mechanism to facilitate constructive engagement. Since then, City workers, residents and visitors have made over two million trips using dockless cycles.

In autumn 2022 a review of Lime and Forest’s operations was undertaken following concerns raised by officers and Members and external complaints regarding dockless cycle hire in the City. In January 2023 it was agreed by Members to renew Forest’s approval status and extend the review period on Lime’s approval status until May 2023 to determine whether they were continuing to meet our requirements for dockless operators in the City. Members then agreed to renew Lime’s approval status in July 2023.

Following Member briefing sessions with both Lime and Forest it was agreed to bring a report to this Committee proposing further short, medium and long term actions for improving dockless cycle hire operations in Square Mile.

The actions require immediate operational changes from operators to improve parking compliance and expand our data collection and reporting over the short term; look to increase in the number of available dockless vehicle parking locations in the medium

term; and over the longer term, facilitate ongoing collaboration with TfL, London Councils and central Government to support and champion additional regulatory, contractual and other powers to better manage dockless operations and operators active in the Square Mile.

### **Recommendation(s)**

Members of the Streets and Walkways Sub Committee are asked to:

- Agree the short-term actions laid out in paragraph 23, which seek to:
  - Implement a City-wide no-parking zone outside of approved parking areas
  - Establish rapid response areas
  - Enhance warning, fining and banning procedures
- Note the other actions laid out in paragraphs 23-27.

### **Main Report**

#### **Background**

1. Micromobility is a term that refers to modes of transport using lightweight and low speed vehicles such as bicycles or scooters, especially electric ones, that may be hired for short-term use. This includes dockless cycle hire and rental e-scooters.
2. The fact that no on-street docking infrastructure is required for dockless cycle hire and rental e-scooters 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. While rental e-scooter schemes are, on a trial basis, regulated by the Department for Transport and Local Highways Authorities, dockless cycle hire schemes fall outside the existing legislative framework. The City Corporation does not have powers to prevent dockless cycle hire schemes from operating in the City. A summary of our legal powers relating to dockless cycles is provided in Appendix 1.
4. In 2019, two companies were given operational approval to operate dockless cycle hire schemes in the City following a competitive tender process – Beryl and Freebike. Both operators were only active in the Square Mile at the time of their launch in June 2019.
5. The City provided this operational status to these operators following issues with previously-active dockless bike operators, Mobike and Ofo, who had been present in London since 2017.
6. As is the case now, operational approval was considered the most appropriate way to constructively engage with a limited number of operators given the lack of powers to prevent any dockless cycle hire schemes from operating. This approach has also been successful in discouraging other operators operating in the Square Mile.

7. In late 2019, Beryl and Freebike's reported parking compliance suggested 89% of Beryl users and 87% of Freebike users ended their journeys in designated parking bays. Just under 20,000 trips were taken between the two operators over the course of the 6-month trial.
8. This compares with reported parking compliance rates of around 90-95% for Lime and Forest and combined ridership levels above 100,000 rides per month at present.
9. Following the departure of Freebike from the City in 2019, believed due to financial reasons, Members approved a refresh to the City's dockless cycle hire policy in December 2019. This allowed operators who satisfied the following conditions to apply to operate in the City:
  1. Agreement to meet certain SLAs, including but not limited to removing inappropriately parked bikes within agreed time limits and limiting overall fleet size
  2. Evidence of ongoing operations in an adjacent London borough with agreement from the borough
  3. Agreement to an upfront payment of funds and ongoing maintenance transfers to support dockless-related expenditures in the City
  4. Evidence of good financial standing and sufficient insurance and indemnity coverage
10. While meeting these criteria makes an operator eligible to apply for approval to operate a scheme in the City it is not a guarantee of operational approval. Consideration is given to the amount of available dockless vehicle parking in the City not currently allocated to other dockless cycle and rental e-scooter operators and the standing of the eligible operator with the City and other London Boroughs.
11. In early 2020, Beryl also ended their dockless hire scheme in the City due to high operational costs relative to income and in 2020 new operators Lime and HumanForest (now called Forest) were given approval to operate schemes in the City following a competitive selection exercise and formal agreement of the criteria listed above.
12. In autumn 2022 a review of Lime and Forest's operations was undertaken following concerns raised by officers and Members and external complaints regarding dockless cycle hire in the City.
13. In January 2023 Members agreed to renew Forest's approval status and extend the review period on Lime's approval status until May 2023 to determine whether they were continuing to meet our requirements for dockless operators in the City. Members then agreed to renew Lime's approval status in July 2023.
14. Since their approval statuses were first granted in 2020, Lime and Forest dockless bikes have been used for an estimated two million trips by City residents, workers and visitors and demand continues to grow. It is estimated that on average over 100,000 journeys are now made by dockless bikes in the City every month. This has contributed to both the increase in cycling observed in the City over the last three years and to challenges around parking supply and inappropriately parked dockless bikes on City streets.

15. We are working with Lime and Forest to ensure that best practice and innovation introduced by one operator is adopted by the other. We are also working closely with TfL and other London boroughs who have agreement with Lime, Forest or other dockless cycle hire scheme operators active in London to ensure industry best practice is adopted in the City.
16. Following discussions with dockless operators regarding parking bay capacity in the City, Members agreed in July 2023 to exploring permitting dockless bike users to end their journeys in selected under-utilised City bike parking racks (Sheffield stands). This proposal will help manage the demand for dockless bike parking while more dedicated dockless parking bays are identified and implemented. Works to identify suitable locations for trialling this approach are set to begin this month.
17. Efforts to adopt the pan-London dockless vehicle byelaw are not being progressed. In June 2023, London Council's Transport and Environment Committee agreed in principle to a single contract approach for e-bikes and e-scooters and to work with TfL and London local authorities on the design of the scheme, with the hopes of enabling a transition to a single contract in 2025. Further details of this approach are provided below in paragraphs 35-41.
18. In advance of this contract coming into effect and/or the Government introducing planned legislation, individual agreements with operators remain the most effective mechanism for managing dockless cycle hire in the City.

### **Actions to improve parking compliance and dockless operations in the City**

19. Following recent Member briefing sessions with Lime and Forest, it was agreed to bring a report to this Committee proposing short-, medium- and long-term actions for improving dockless operations in Square Mile.
20. Officers have prepared a series of potential actions for consideration by Members, summarised below. Members are asked to approve the actions outlined in paragraph 23 and note all other actions.
21. In summary, the actions require immediate operational changes from operators to improve parking compliance; seek to expand our data collection and reporting over the short term; aim to increase in the number of available dockless vehicle parking locations in the medium term; and, over the longer term, facilitate ongoing collaboration with TfL, London Councils and central Government to support and champion additional regulatory, contractual and other powers to better manage dockless operations and operators.
22. As 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 (as outlined in Appendix 1), many actions listed below are dependent on compliance by operators.

### **Immediate actions (early 2024)**

23. The following actions are proposed for immediate undertaking:

- a. **A City-wide no-parking zone outside of approved parking areas** – establishing a City-wide no-parking zone for dockless cycles except for dockless bays and selected Sheffield stands. All areas beyond a reasonable buffer (proposed 6-10m to allow for standard GPS drift in some areas) around approved parking locations would be unavailable for ending dockless bike journeys, similar to how the e-scooter trial operates. Operators will be required to manage inappropriately parked bikes in accordance with the new no-parking zone, for example by not allowing users to end rides by locking the bike within the zone or through fines and charges. We will also work with operators to ensure the active management of dockless bays which are likely to exceed capacity at certain times while additional bay locations are being identified and installed.
- b. **Rapid response locations** – identifying additional sensitive locations that require operators to remove bikes within 90 minutes (in line with the timeframe for bikes identified as causing an obstruction), for example the High Walks and Bank junction.
- c. **Review warning, fining and banning procedures** – working with operators to review their approach to warning, fining and banning users to support the changes above.

24. In addition to the above, as previously agreed, we will allow dockless bikes to be parked at selected Sheffield stands and cycle parking areas on a temporary basis while additional dedicated dockless parking areas are identified.

25. Members are asked to approve the actions outlined above in points a to c, noting that it may take time for compliance to improve and that there may be complaints for hire scheme users as behaviours and habits adjust.

### **Short term actions (by mid 2024)**

26. The following actions are proposed to be undertaken in the short term by mid-2024:

- a. **New dockless vehicle parking spaces** – complete implementation of previously-approved spaces.
- b. **Audit kerbside space availability and parking occupancy** – Appointing consultants to identify potential locations for additional dockless vehicle parking places, including underutilised Sheffield stands/cycle racks and pay and display parking spaces.
- c. **Member walkabouts and information gathering** - working with Members to identify areas of poor dockless vehicle parking compliance and potential new dockless vehicle parking places in their wards
- d. **Dedicated dockless webpage** – creating a new webpage to provide additional information on dockless cycle and e-scooter rental schemes on the City of London Corporation webpage, including reporting procedures and general Q&As
- e. **Additional data collection and reporting** – enhancing City staff reporting and data collection processes on both appropriately and inappropriately parked bikes, building on existing procedures
- f. **Cycle and e-scooter campaigns** - planning and running cycle and e-scooter-themed campaigns in April and July, including:

- i. Training for dockless bikes and e-scooters users in the Guildhall Yard, held jointly with dockless operators.
- ii. Additional messaging for dockless scheme users by operators including via in-app messaging.
- iii. Additional public messaging from City of London Corporation and operator social media accounts and working with BIDs and other stakeholders to extend social media reach.
- iv. City staff undertaking additional reporting and collecting statistics on inappropriately parked bikes

### **Medium term (by late 2024/early 2025)**

27. The following actions are proposed to be undertaken in the medium term through to late 2024-2025:

- a. **Enhanced monitoring and data sharing** – working with operators to enhance monitoring of dockless schemes and greater real-time data sharing between operators and local authorities.
- b. **Additional dockless vehicle parking spaces** – delivery of additional dockless vehicle parking places as identified through kerbside review.
- c. **Supporting planning policies** - exploring changes to local plan guidance or provision of publicly accessible dockless vehicle parking places on private land
- d. **Potential enhancements to parking places with new technologies** - exploring new technologies such as Bluetooth masts and beacons and enhanced GPS sensing to improve parking compliance at dockless parking places

### **Long term (by 2026)**

28. The following actions are proposed to be undertaken over the longer term through to 2026:

- a. **Joining the pan-London joint dockless micromobility contract** - Potential participation in the pan-London joint dockless bike and e-scooter micromobility contract, set to create a single standard for dockless schemes across London and improve the ability of boroughs to enforce against poor parking compliance
- b. **Supporting and championing primary legislation** – working with TfL, London Councils and operators to support and champion for primary legislation focussed on micromobility providing regulatory and other powers for local authorities to manage dockless vehicle schemes.

### **Dockless bike scheme monitoring and data collection**

29. Operators regularly share operational and compliance data with Officers as part of ongoing monitoring and evaluation of their schemes. Members have expressed a desire for this operator data to be independently verified or regularly audited to ensure accuracy and validity.

30. City Officers undertake periodic bay occupancy audits to understand parking compliance and activity levels in and around our approved parking areas.

Beyond this, at present there are limited cost- and resource-efficient methods available to verify or audit data shared with us by operators.

31. Officers will seek to undertake periodic sampling to capture numbers of both inappropriately and appropriately parked bikes in small areas. This data may allow us limited ability to verify and audit operator data on percentages of dockless bike journeys that end with a bike appropriately or inappropriately parked, noting that data collected in this way is unable to account for bikes that are moved after a journey is ended.
32. London Councils and Transport for London are working to expand existing data sharing platforms, including PowerBI dashboards and the BlueSystems tool in use for the rental e-scooter trial, to better incorporate dockless bike data. However, without powers to compel operators to share this data there has been limited success in incorporating auditable data sources into these platforms.
33. Data auditing and verification will likely improve considerably once the joint dockless micromobility contract is live (likely 2025/26, outlined below), as these challenges and issues do not exist for rental e-scooter data that is already shared and managed through the BlueSystems platform.
34. City Officers will continue to work with London Councils, Transport for London and dockless operators to improve data sharing agreements and will seek to find alternative, cost- and resource-effective ways to better audit and verify the data that operators share with us.
35. City Officers will update Members of this Committee on a quarterly basis to share the data that we regularly receive from operators.

### **Pan-London joint dockless micromobility contract**

36. Issues with dockless bike schemes are not unique to the City. Roughly a dozen London boroughs and the City have met biweekly since 2019 to identify potential solutions and mitigations to poor dockless cycle hire scheme operational performance across London.
37. Following works undertaken by London Councils, Transport for London and several London local authorities, in June 2023 London Council's Transport and Environment Committee agreed in principle to a single contract approach for e-bikes and e-scooters and to work with TfL and London local authorities on the design of the scheme, with the hopes of enabling a transition to a single contract in 2025/26.
38. A single, coordinated contract would allow London local authorities to provide a high-quality service for residents, workers and visitors which can harness the potential of these modes and control how vehicles are parked in lieu of additional powers granted by central legislation.
39. This approach has been successfully introduced in the e-scooter trial. The following factors will seek to guarantee operator compliance:
  - a. a legally binding contract with clear rules and expectations

- b. one set of rules across London for operators and for users
  - c. central capacity to manage the contract and measure performance through TfL and London Councils
40. This proposal would also give London local authorities and London customers greater certainty. The contract would last 3-5 years in order to provide financial sustainability and certainty of delivery for both operators and local authorities. This would allow us to embed these services into long term policy and business plans. The proposal also sets us up for new legislation where TfL – rather than London local authorities – are likely to have the powers to grant licences to operators.
41. TfL and London Councils are nearing the completion of draft contractual documents, including a proposed operational specification and participation agreement. City Officers have been heavily involved in the drafting process and will continue to participate in document finalisation in early 2024.
42. It is anticipated that TfL and London Councils will seek commitments in principle from London local authorities to join the joint micromobility contract prior to the commencement of a dedicated procurement exercise later in 2024. Officers will bring a report to this committee in due course to seek formal approval to commit to joining the joint micromobility contract.

### **Central government micromobility legislation**

43. The Government has stated its plans to introduce controls to enable the regulation of the dockless rental market. This would extend to rental bikes and e-bikes as well as e-scooters. The timetable for the legislative process as not yet been confirmed and no relevant legislation was included in the King's Speech in Autumn 2023.
44. As discussed at the last meeting of the Committee the Policy Chairman has written to the Secretary of State for Transport to highlight our concerns around the delay to this legislation.

### **Corporate & Strategic Implications**

45. Dockless cycle hire supports the delivery of Corporate Plan Outcome 9: We are digitally and physically well-connected.
46. The City of London Transport Strategy (Proposal 28) sets out our approach to improving cycle hire in the Square Mile. The need for designated parking areas is also included in Proposal 17: Keep pavements free of obstructions.
47. Micromobility schemes including dockless cycle hire helps inform the Future City Streets Programme (Proposal 42).
48. Dockless cycle hire also supports our Climate Action Strategy through providing a potentially zero emission alternative to short car, private hire and taxi trips.



49. There is a possible reputational risk to the City Corporation if innovative approaches to increasing sustainable and healthy transport modes are not carefully considered. There are also possible reputational risks if potential adverse impacts of dockless cycle hire operations are not carefully managed.

### **Legal implications**

50. Dockless cycle hire schemes which do not necessitate any infrastructure being placed on the highway fall outside the existing legislative framework and do not need the City Corporation's consent to operate in the City, as outlined in Appendix 1.
51. In the event of loss, injury or damage being caused by dockless 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.
52. The steps proposed to secure the co-operation of operators in ensuring safe practices would help demonstrate that the City is taking reasonable measures consistent with its responsibilities outlined in Appendix 1.
53. Data collected from dockless cycle hire operations will also help inform Corporation policy and possible representations on and consultations to future legislation to regulate the dockless hire market.

### **Financial implications**

54. Operators have agreed to cover the costs of the study referenced in Paragraph 26, which will help identify additional parking areas for delivery and appropriate Sheffield stands for interim use ahead of new parking bay implementation. Subject to the outcome of that study we will seek additional contributions to cover the costs of those new bays. Bays that are currently being delivered are funded through existing e-scooter trial income.
55. Additional costs will be incurred if the City Corporation must relocate or remove dockless bikes deemed to be causing a danger from the streets in default of the operator removing them. Removal and storage costs would be incurred in these circumstances and will be recovered through charging operators for removal.
56. There will be some additional impact on cleansing teams as in some locations when dockless parking areas are full it is more difficult for cleansing team to access the area. This is an issue for any vehicle parked areas if occupied whilst cleansing operatives are carrying out work. Further details are included in Appendix 2.

### **Health Implications**

57. Well managed dockless cycle hire schemes have the potential to reduce the number of car journeys within central London, and potentially shift journeys from short car, taxi, private hire and public transport trips, with associated benefits to air quality and public health.

## **Equality Implications**

58. A detailed Equalities Impact Assessment has been undertaken in consultation with internal and external stakeholders on a similar scheme – the City of London’s rental e-scooter trial. Lessons and mitigations from that EqlA have been taken into consideration wherever appropriate and related to dockless cycle hire.

59. Dockless cycle hire activity in the City is being monitored to understand impacts on protected characteristic groups (e.g. visually impaired, wheelchair users). This is consistent with the public sector equality duty.

60. The City of London rental e-scooter trial EQIA identifies a number of issues, particularly around safety of e-scooter users and other road users, which can help better understand and develop mitigations for dockless cycle hire schemes, including:

- Speeding and irresponsible riding behaviours
- Irresponsible parking leading to dockless cycles being abandoned and becoming street litter that could causing obstructions or injury
- Increased fears for people’s safety and wellbeing on the City’s Streets
- Increased risk of collisions for those riding dockless cycles
- Increased risk to people walking on our streets, due to dockless cycles not being seen or heard, dockless cycles speeding in shared use areas, and/or illegal or poor rider behaviour

61. Engagement and enforcement against illegal and unsafe use of dockless cycles will be undertaken in partnership with City of London Police.

62. In summary we have concluded that the application of mitigation measures and the benefits from safe use of a dockless cycles outweigh the negative impacts, or potential impacts of those in protected characteristics groups.

## **Conclusion**

63. Dockless cycle hire schemes have been active in the City since 2017. They have created various challenges but also opportunities for the City Corporation and Londoners more widely.

64. The actions outlined in this report aim to improve parking compliance and scheme operations across the Square Mile.

65. Officers will continue to monitor Lime and Forest’s performance in the City and work with both operators and TfL/London Councils to improve data collection, sharing, analysis and verification across all dockless modes.

66. While the situation is not perfect at present, this approach continues our formal relationships with operators, allowing us to continue to work constructively with

them to raise issues and discuss potential solutions while recouping some of the costs associated with mitigating the impacts of dockless cycle hire in the City. Not working with operators would likely also lead to a free-for-all environment similar to what has happened previously in other London boroughs.

67. The City Corporation is also seen as an important dockless vehicle policy knowledge base both within London and nationally. Continuing our engagement with operators in London and the dockless industry more widely will help us maintain and elevate that status and the leverage it affords the City Corporation in influencing wider policy and legislation.

68. We will continue to bring updates and reports to this Committee on dockless operational performance in the City on a quarterly basis and at other times when beneficial.

### **Background Papers**

- [Extended Review of Dockless Operator Lime - 4 July 2023](#)
- [Dockless cycles policy and legal powers update - 17 January 2023](#)
- [London rental e-scooter trial and dockless vehicle update - 19 July 2022](#)
- [Dockless cycle hire trial outcomes and next steps - 12 December 2019](#)

### **Appendices**

Appendix 2 – Existing cleansing and enforcement arrangements

Appendix 1 – Legal advice on obstructions/dangers

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## **Appendix 1 – Legal implications: Advice from the Comptroller and City Solicitor**

### **Statutory duties**

The City Corporation has a duty under s.130 of the HA 1980 to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority.

It also has a network management duty under s.16 of the Traffic Management Act 2004. This requires it to manage its road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives:

- a. securing the expeditious movement of traffic on the authority's road network; and
- b. facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

Under section 122 of the Road Traffic Regulation Act 1984 local authorities are under a duty to exercise functions conferred on them under that Act so far as practicable, having regard to matters specified in subsection (2), to secure the expeditious, safe and convenient movement of traffic (including pedestrians).

The City Corporation is also subject to the public sector equality duty under section 149 of the Equalities Act 2010. This means that in the exercise of its functions it must have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This includes removing or minimising disadvantages suffered by people due to their protected characteristics (such as visual or mobility disabilities).

An unmanaged proliferation of bikes on the highway arising from dockless bike hire schemes may compromise compliance with the above statutory duties.

### **Statutory powers to deal with bikes on highway**

Dockless cycle hire schemes which do not necessitate any infrastructure being placed on the highway fall outside the existing legislative framework and do not need the City Corporation's consent to operate in the City. However, there are some existing statutory powers available where bikes are left so as to cause an obstruction, nuisance or danger.

1. Section 137 HA 1980 – If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding Level 3 on the standard scale (currently up to £1000.00.)
2. Section 148(c) HA 1980– if, without lawful authority or excuse a person deposits anything whatsoever on a highway to the interruption of any user of

the highway he is guilty of an offence and liable to a fine not exceeding Level 3 on the standard scale.

3. Section 149 HA 1980 – if anything is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited there to remove it forthwith. In the event of non-compliance, a court order may be obtained authorising the removal and disposal of the offending item. If the highway authority has reasonable grounds for considering the item constitutes a danger (including a danger caused by obstructing the view) to users of the highway and ought to be removed without the delay of seeking a court order it can remove the item forthwith and, ultimately, seek a court order for its disposal.

A highway nuisance can be defined as ‘any wrongful act or omission upon or near a highway, whereby the public are prevented from freely, safely and conveniently passing along the highway’. So it is something that causes an interference with the public right of way along a highway.

Obstructions are defined in TfL’s ‘Dockless Bike Share Code Of Practice For Operators In London 2018’ as *a situation arising from the deposit of a bike or bikes (whether by reason of its or their position, their number, or otherwise) so as to adversely affect the free use of a highway (including a footway or a carriageway), or adversely affect the free use of any other public or private land (including river, canal and park environments which is not specifically assigned for the purposes of dockless bikes, without lawful authority or excuse*. (This is not a legal definition but it provides a useful guide).

What constitutes a danger will need to be considered on the facts of each situation but a number of dockless vehicles left fallen across a footway so as to cause a trip hazard may be considered to be a danger. Where a substantial part of the footway is blocked that may also constitute a danger if pedestrians could be forced into the street. Location specific reasons may also be a factor as to whether left vehicles are a danger such as the width of the footpath and the level of footfall.

### **Street trading and ‘waste’**

Consideration has been given to whether the provision of dockless cycles for hire is caught by local legislation which makes it unlawful for any person to engage in unauthorised street trading in the City. “Street trading” is defined in the City of London (Various Powers) Act 1987 to mean the selling or exposing or offering for sale of any article or thing in a street. However, dockless cycle hire schemes involve bikes being available on the highway (or on private land with the consent of the owner) for temporary hire by members of the public, with payment being made via an App, and no person in the street engaged in the hiring out of the bikes. As the 1987 Act prohibits a person from selling etc. items in the street, not the temporary hiring of bikes in the way proposed which is more in the nature of a service (and not dissimilar to the existing Santander cycle hire scheme except that there are no docking stations), the activity would not amount to unauthorised street trading.

Consideration has been given to whether definitions of “waste” or “litter” in legislation apply. It is considered that these terms are not intended to cover bicycles left temporarily on the highway and which are in use for the benefit of the operators and their customers and officers are not aware of any decisions on this point. It is not considered that this adds significantly to the City’s statutory powers to deal with bikes on the highway.

### **Regulation by making byelaws**

Government guidance states that byelaws are considered measures of last resort after a local council has tried to address the local issue the byelaw applies to through other means. A byelaw cannot be made where alternative legislative measures already exist that could be used to address the problem. Byelaws should always be proportionate and reasonable.

It follows that there is a risk that the case for making a byelaw to regulate dockless bike hire could be undermined if all bikes on City streets were to be classed as obstructions and removed under existing powers.

It is understood that action proposed to establish a regulatory framework for dockless vehicle schemes by way of a London-wide byelaw has been deferred as the Government has indicated that it intends to introduce controls to regulate the market. These regulations have been pushed back to at the earliest the next parliamentary session in 2023.

### **Liabilities**

In the event of loss, injury or damage being caused by the 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 secure the co-operation of operators in ensuring safe practises would help demonstrate that the City is taking reasonable measures consistent with its responsibilities.

## **Appendix 2 – Existing cleansing and enforcement arrangements**

Our current approach to enforcing against inappropriately parked dockless bikes consists of reporting issues and incidents directly to operators and, if possible, immediately moving or relocating bikes to more appropriate locations. We do not currently undertake significant legal enforcement action against dockless cycle hire schemes.

While City Corporation staff are unable to unlock dockless cycles to relocate them to approved parking areas, they will attempt to lift bikes (which can weigh up to 20kg) while they are locked to move them to more appropriate nearby locations. The relocation is limited to the nearest safe location, as bikes are heavy and locked, needing two people to move them. These bikes are then reported immediately to the responsible operator to attend to.

The City Corporation has limited powers to enforce against dockless cycles that pose nuisances, obstructions or dangers on City streets. Enforcing against dockless cycles that pose an obstruction involves notifying operators of any obstructions and providing them a reasonable timeframe for removing the obstruction. If the obstruction is not removed in a reasonable timeframe the City Corporation can seek a court order to enable us to remove the obstruction ourselves.

Any dockless cycles that pose a danger on our streets may be removed immediately. While no standard definition of how dockless cycles may constitute a danger on UK highways exists, potential scenarios have been identified as part of legal advice sought out regarding this.

Officers have not regularly enforced against bikes that pose a danger due to:

- a. Limited secure storage for removed bikes due to changes at Walbrook Wharf
- b. Updated costs associated with enabling the IDOX cleansing system to facilitate dockless cycles removals
- c. Limited cleansing staff resource
- d. A lack of formal legal and policy guidance on how to appraise whether an inappropriately parked dockless bike constitutes a danger or an obstruction
- e. Concerns around legal challenges should operators wish to challenge our definition of dangerously parked dockless bikes
- f. Awareness that most bikes are re-hired or removed before City cleansing staff are able to attend to sites with inappropriately parked bikes with the necessary removal vehicle and teams

City staff will continue to report inappropriately parked bikes to operators, move those bikes when possible and work with operators to improve their compliance and response times.