



City of Westminster

Cabinet Member Report

Meeting or Decision Maker: The Cabinet Member for Environment and Highways

Date: 09/11/2020

Classification: For General Release

Title: Rental E-scooter Trial

Wards Affected: All Wards

City for All This decision contributes to the City for All initiative by providing a regulated approach to trial rental e-scooter schemes for a maximum of 12 months. This will provide alternative and greener transport modes for people in Westminster and other participating boroughs with the safety of individuals on our streets in mind.

Key Decision: This report is a key decision

Financial Summary: The estimated cost of the proposals identified in this report is £50,000. It is the intention that any Trial scheme will be cost neutral to the City Council.

Report of: Executive Director for City

Management and Communities

1. Executive Summary

- 1.1 This report (i) provides the Cabinet Member with an update on the fast-moving development of the rental e-scooter trial in London, and (ii) seeks approval for the rental e-scooter trial to operate in City of Westminster along with other participating boroughs within Greater London. It should be noted that private e-scooters remain to be illegal and cannot be included in this trial.
- 1.2 As a result of the COVID-19 pandemic response, the rental e-scooter trial has been fast-tracked by the Department for Transport (DfT) and the existing Greater London Dockless Vehicle Bylaw working group, led by Transport for London (TfL) and London Councils (LC) who were called upon to formalise a trial for the Greater London area. This work utilises the Council's experience from dockless bike hire schemes that are currently in operation in several London Boroughs, which should ensure that a more successful and pan-London approach is taken for the trial area. We must avoid a repeat of patchwork agreements and operating areas experienced in relation to the dockless bike hire schemes.
- 1.3 TfL & LC's dockless bylaw working group has continued to develop the bylaw, however it should be noted that this is not essential for the implementation of the rental e-scooter trial. This is because the DfT approvals process of contractual agreements will ensure higher levels of compliance of operators and DfT will reserve the right to revoke the licence and the legality of the operator and its fleet if any on-street problems arise.

2. Recommendations

- 2.1 That Appendix B to this report be exempt from disclosure by virtue of the Local Government Act 1972 Schedule 12A, Paragraph 3 (as amended), in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 2.2 It is recommended that the Cabinet Member for Environment and City Management approves the City Council to participate in the multi-borough rental e-scooter trial administered by TfL for a maximum twelve-month period, with an option to extend the trial for a period of up to six-months; provided we are satisfied with all final guidance issued by DfT and the final documentation and scheme proposal received from TfL.
- 2.3 It is recommended that the Cabinet Member for Environment and City Management delegates authority to the Director for City Highways to agree on final arrangements, and to enter into any necessary legal agreements with TfL and independent rental e-scooter operators in consultation with the Cabinet Member for Environment and Highways where necessary.

3. Reasons for Decision

- 3.1 To respond to the COVID-19 pandemic and to allow for the Government's advice for social distancing and safe travel on public transport by increasing alternative transport options e.g. e-scooters as well as capacity.
- 3.2 Assess whether e-scooters should be legalised in the UK as part of the long-term policy review by the Government.

- 3.3 To better understand if and how these vehicles can be safely accommodated on London's Streets. By collecting a robust evidence base on safety and other impacts caused by e-scooter uses.

4. Background, including Policy Context

- 4.1 Advances in battery technology in recent years have led to increasing numbers of e-scooters and other forms of motorised micromobility for private ownership and fleets for commercial rental schemes.
- 4.2 Similar to the recent emergence of the dockless bike hire schemes, many rental e-scooter schemes do not require parking infrastructure making them free-floating, which has the increased benefit of flexibility in journeys and likely behavioural changes and modal shift. However, there is an impact on the public realm as dockless bikes increase street clutter and obstruction if parking and deployment is left unregulated.
- 4.3 The Government published an urgent legislation review in May 2020 to allow formal trials of rental e-scooters to commence more rapidly in response to the COVID-19 pandemic and look to seek a green restart of local transport and help mitigate reduced public transport capacity. TfL's transport network has been reduced by 85% capacity and whilst active travel is encouraged above all else, innovative and greener travel should be considered to reduce the risk of a car-led recovery.
- 4.4 The DfT announced that the rental e-scooter trial is to be fast tracked and expand trial areas from the four Future of

Transport Zones to the remainder of the country. The duration of the trial will be for twelve-months, following which, the DfT will conclude the outcome and will assess whether these vehicles should be legalised in the UK as part of DfT's Future Transport Regulatory Review. It is likely the DfT will further consult with participated authorities on the review of regulatory changes in the future.

- 4.5 DfT regulatory changes were made on 04 July 2020 include changes to rental e-scooter to be regulated similarly to the electronically assisted pedal cycles (EAPCs) as both types of vehicles have a similar road presence and visibility for other road users. During the trial, rental e-scooters will be classified as motor vehicles, similar to a moped and they should have the relevant motor vehicle insurance provided through the operators. The vehicles will either need to meet existing requirements for vehicle construction and approval by the DfT; or be authorised by a Vehicle Special Order issued by the Secretary of State to be used in the trial.
- 4.6 Officers are working with the DfT and TfL to understand what type of insurance policies will be required under the legislation and whether they will be required to cover third-party liability. The trial will also require users to hold relevant driving licence (category AM, A1, A2, A or B licence). However, the law is subject to amendment after the trial to remove such requirements.
- 4.7 Concerns on the safety of e-scooters and evidence have suggested users are more exposed to risk of injury and casualty compared to any other road users on comparable vehicles, such as e-bikes and mopeds. Areas with higher speed limits have shown e-scooter related incidents are:

- E-scooter users are most likely to suffer serious injuries in a collision when a motor vehicle is involved,
 - A higher than average proportion of e-scooter accidents involve drink driving at night by e-scooter users
 - Incidences of collisions between e-scooter users and pedestrians is low and when they do occur, injuries are more minor
- 4.8 The DfT are satisfied with vehicle construction and other measures to mitigate safety risk are sufficient to legalise rental e-scooters for use in trials across the UK. Therefore, officers are of the view the trial should be not prevented on the grounds of safety risk.
- 4.9 Evidence from existing rental e-scooter schemes in other cities around the world have suggested they have the potential to encourage significant modal shift and provide a viable non-car alternative to public transport that meets social distancing requirements.
- 4.10 The DfT is only permitting the trialling of rental e-scooters and online guidance has been updated to clarify the position that privately-owned e-scooters will remain illegal throughout the trial period.
- 4.11 Metropolitan Police Service (MPS) are supportive of the Greater London rental e-scooter trial and have been working with TfL in the process of drafting the proposal, and is included as a main stakeholder of the monthly performance and metrics review process which will be undertaken over the course of the trial.
- 4.12 The trial will contribute to City of Westminster's 2019-2040 City Plan objectives. It is intended that the implementation of the trial will address the following:

- S25, A – The council will support a sustainable pattern of development which maximises trips made by sustainable modes, creates safer streets for all, reduces traffic, improves air quality and reflects the objectives in Westminster’s Transport and Public Realm Programme and Local Implementation Plan 2019/20 to 2021/22;
- S26.7 – enabling people to lead healthier, more active lives, can help to reduce the pressure on highways capacity and public transport, facilitate improvements to the public realm and enable greater numbers of people to use the existing road space;
- S26.8 – increase shift from the motor car, resulting in reduction of harmful emissions and leading to improved air quality.

5. Scheme Proposals

- 5.1 The DfT has published guidance documents in July 2020 to outline the methodology to the trial. TfL are expecting that DfT will be making additional changes to the guidance document and any significant changes will be circulated through officer’s briefing notes during the implementation of the trial if it is to go ahead.
- 5.2 The DfT recommends agreeing a lead authority to administer the trial where areas include and involve several tiers of local government or transport authorities. It is expected that the lead authority (TfL & LC’s) will have strategic oversight across all local trial areas and will lead on co-ordinating function, ensuring consistency, commercial procurement expertise and IT system support. The multi-borough trial scope was agreed with all participating boroughs with input from borough officers and the police.

- 5.3 The DfT have indicated participating authorities can set local criteria and terms of their trial through the procurement process. All trials will be subject to Secretary of State approvals through Administrative Orders which will allow the trial to begin.
- 5.4 The DfT have indicated participating authorities will have significantly more power to manage rental e-scooter schemes compared to existing dockless bike hire, as operators will be entering contractual agreements which will be reviewed and agreed by the Secretary of State in the approvals process.
- 5.5 TfL will lead on market engagement and competitive selection process on behalf of participating boroughs. With the specification of the Greater London trial jointly agreed by borough officers where all local requirements are considered. The City Council will then have the opportunity to call off the contract once the operators have been selected by TfL through its internal procurement process, provided we are satisfied with all final guidance issued by DfT and final documentation and proposal from TfL.
- 5.6 Successful bidders will remain consistent throughout the trial area, to avoid patchwork operator and permitted areas of operations. **(Please refer to Section 4 of Appendix B)**
- 5.7 TfL will oversee and monitor operator fleet and trip data using their newly procured IT system. This is a centrally managed data platform of which all operators are required to feed into. Real-time data and accurate GPS will assist the management and compliance of vehicle fleets and parking requirements. Participating boroughs will have access to this platform and can formulate monitoring programmes as necessary.

- 5.8 Maximum permitted vehicle numbers at the commencement of the trial and an ongoing 'Dynamic fleet cap' process will manage operator's overall fleet number based on their performance against TfL's monitoring metrics and will involve review processes with the relevant stakeholders. **(Please refer to section 7 and 8 of Appendix B)**
- 5.8 E-scooters cannot be used on pavements and other pedestrianised areas of public space and this approach, along with strict controls on where e-scooters can be parked, will minimise risks to pedestrians and in particular the elderly and the disabled on busy footways. Ongoing discussions are taking place with accessibility stakeholders to ensure they are content with the proposals.
- 5.9 Borough's responsibility will include the designating of parking bays, local requirements and 'key zones' where all vehicles will adhere to specific parking and operating requirements using geofencing technology. Such zones can be subject to changes over the course of the trial as per local requirements. **(Please refer to section 9 of Appendix B)**
- 5.10 The City Council will not be supporting a 'free-floating' dockless parking model and will be providing a mixture of footway and carriageway parking for the trial. It is expected approximately 70 bays will accommodate the number of vehicles deployed within the London trial area, with consideration that Westminster is a 'destination' borough. This is likely to be intensified over the course of the trial as changes in number of vehicles will be closely monitored.
- 5.11 The DfT are expected to make necessary changes to The Traffic Signs Regulations and General Directions (TSRGD) signs manual to make cycle signage applicable to e-scooters. A borough-wide Traffic Order change will be

required to permit the use of vehicles and convert designated bays for parking, such bays will be fully enforceable.

- 5.12 Under the DfT guidance, use of helmets are not compulsory, however under TfL & LC's proposal, borough officers have strongly recommended the use of helmets during hire and it is expected that the selected operators will actively encourage users to wear a cycle-compliant helmet during use.
- 5.13 In the event a change is required for safety, scheme feasibility or any other changes needed to retain viability of the trial, selected operators must agree to changes to the contract. Persistent breaches of such conditions will allow participating borough to exit the trial or could lead to the DfT revoking the operator's licence to operate. **(Please refer to Appendix B)**
- 5.14 A borough can join the trial at a later stage, subject to TfL's monitoring periods and their relevant start/end dates and notice period.
- 5.15 Any Traffic Order changes for the purpose of the trial will be executed through Experimental Traffic Order (ETO). Boroughs will be encouraged to make traffic order changes to allow the free movement of the vehicles across boroughs to enable more flexible journeys, should they for any reason decide not to designate parking for vehicles for deployment or user parking with the costs covered by successful bidders.
- 5.16 On completion of the trial, operators must remove all vehicles from the streets unless an additional competitive process has been taken for further rental e-scooter activity in London, and that the operator have successfully secured the

right to continue operations, or by agreement the trial period has been extended with the existing terms and conditions.

6. Programme

6.1 Key dates of the proposed trial are as follows:

- **May 2020** – The DfT launch urgent legislative review for rental e-scooter trial and announcement of the proposed new dates for trials in the UK to commence in summer 2020
- **June 2020** – TfL and LC draft proposal for the Greater London trial area with borough officers' input, and complete market sounding exercise
- **July 2020** – The DfT publish guidance documents to outline the methodology to the trial and made necessary regulatory changes to allow rental e-scooters to be used on UK roads. TfL and LC agree upon procurement framework with borough officers. Transport & Environment Committee (TEC) Members updated on trial proposal
- **August 2020** – TfL/LC finalise trial specification, tender documents and criteria development to evaluate bids. Contracts and legal documents to be drafted.
- **November 2020** – TfL funding finalised. TfL to publish tender documents to market for operator selection. Boroughs to initiate Equality Impact Assessment (EIA) and assess borough parking requirements. DfT published in writing regulatory issue will be addressed and will be looking at completing this task early 2021 (**Please refer to section 7.2 of this report**)
- **December 2020** – operator selection process complete, DfT approvals for the London pilot and successful bidders

- **February 2021** – expected earliest rental e-scooter trial can launch on street providing DfT regulatory issues addressed,
- **Winter 2021/early 2022** – DfT evaluation process for the outcome of the trial

7. Outstanding Issues

- 7.1 This Cabinet Member Report does not directly authorise the operation of rental e-scooters schemes in City of Westminster. Instead, a trial can only operate in the City provided we are satisfied with all final guidance issued by DfT and final documentation and proposal from TfL. The trial can only start to operate once [call-off] contractual agreements are in place and will be subject to Secretary of State approvals.
- 7.2 At the time of writing, the DfT have acknowledged the regulatory issues and have yet to clarify their position on the legal use of these motorised vehicles in ‘cycle tracks’ (segregated cycle track, for example, sections of the Cycle Superhighway). This is a key issue as the necessary Traffic Order changes are required to permit such vehicles to be used on any part of the highway. Likely commencement date of the trial is likely to be February 2021, as suggested regulatory changes will require public consultation and with works commenced September 2020 and will take 2-3 months.

8. Financial Implications

- 8.1 It is estimated the proposed trial will cost in the region of £50,000 to cover staff time, infrastructure and signage to

facilitate designated parking bays, Traffic Order changes and community engagement. All costs incurred on this project will be charged against the City Highways budget and recouped through the proposed TfL fee structure and apportionment. **(Please refer to section 21 of Appendix B)**

9. Legal Implications

- 9.1 The management of the operation of e-scooters within Westminster will be exercised by the City Council in accordance with regulations issued by the DfT. By participating in the trial, the City Council will fully comply with any regulations issued by the DfT.
- 9.2 The City Council as local highway authority will continue to exercise its existing powers of removal and seizure of non-compliant e-scooters under the Highways Act 1980.
- 9.3 The City Council confirms that, in formulating the proposals set out in this report, it has had regard to its public sector equality duty contained in Section 149 of the Equality Act 2010.
- 9.4 The Director of Law has considered this report and is satisfied that the proposed works and orders fall within the statutory powers as detailed in 9.1 and 9.2 above.

10. Consultation

- 10.1 The City Council have formally responded to DfT's open consultation in June 2020 on Legalising rental e-scooter trials, and part of their Future of Transport Regulatory Review in July 2020.

- 10.2 The City Council have formally responded to Transport Committee's E-scooter Inquiry in June 2020.
- 10.3 TfL & LC has outreached to numerous groups of stakeholders using a variety of platforms to clarify the position from the DfT, TfL and London Borough on the proposed trial and how it will minimise impact on the disability and groups that have been highlighted vulnerable, as well as road-user key stakeholders across London. Ongoing liaison throughout the proposal of the trial between the lead authority and such stakeholders will continue to minimise any potential impacts. **(Please refer to Appendix C for the full list of stakeholders engaged.)**
- 10.4 TfL & LC completed an informal consultation with over 30 dockless rental e-scooter operators as part of their market sounding exercise in development of the specification document and tender document.
- 10.5 Individual Ward Members have not yet been consulted on as the proposed trial is not currently in a stage where localised ward benefit or impacts have been identified. Ward consultation will be completed in due course once suggested designated parking, restricted operating zones are identified.

11. Equalities Implications

- 11.1 Under the Equalities Act 2010 the council has a "public sector equality duty". This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;

- to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex
- and sexual orientation) and those who do not share it; and 9
- to foster good relations between persons who share a relevant protected characteristic and those who do not share it.

11.2 The council is also required to have due regard to the need to take steps to take account of disabled persons' disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in public life. The 2010 Act states that "having due regard" to the need to promote equality of opportunity involves in particular having regard to:

- the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic;
- take steps to meet the needs of persons sharing a protected characteristic that are connected with it;
- take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and
- encourage persons with a protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

11.3 The courts have held that "due regard" in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be

decisive; it is for the decision-maker to decide what weight should be given to the equalities implications of the decision.

11.4 Officers have considered the need for a formal Equalities Impact Assessment (EIA) of the proposed trial. Potential impact may arise from the proposed trial therefore a full EIA is deemed necessary and will be completed by the City Council.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:
Steve Tse on 0207 641 3561 or email:
stse@westminster.gov.uk**

BACKGROUND PAPERS:

Westminster's City Plan

https://www.westminster.gov.uk/sites/default/files/city_plan_2019_to_2040_draft.pdf

Department for Transport's guidance for rental e-scooter trial

<https://www.gov.uk/government/publications/e-scooter-trials-guidance-for-local-areas-and-rental-operators/e-scooter-trials-guidance-for-local-areas-and-rental-operators>

Legalising rental e-scooter trials: outcome and summary of responses:

<https://www.gov.uk/government/consultations/legalising-rental-e-scooter-trials-defining-e-scooters-and-rules-for-their-use>

For completion by the **Cabinet Member for Environment and City Management**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:

Date:

NAME: **Councillor Andrew Smith**

State nature of interest if any

.....
.....
.....

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Rental e-scooter trial** and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Environment & City Highways

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this

with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law , Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Members: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix A: Other Implications

1. Resource Implications

1.1 There are no known resource implications arising from this report.

2. Business Plan Implications

2.1 There are no known Business Plan implications arising from this report.

3. Risk Management Implications

3.1 There are no known risk management implications arising from this report.

4. Health and Wellbeing Impact Assessment including Health and Safety Implications

4.1 There are no known Health and Wellbeing Impact Assessment including Health and Safety implications arising from this report.

5. Crime and Disorder Implications

5.1 Regulated dockless parking should help reduce anti-social behaviour and incidents.

6. Impact on the Environment

6.1 There are no known impact on the environment arising from this report.

7. Equalities Implications

7.1 The outcome of the proposed trial should have a positive impact on those with mobility difficulties. Agreed spaces to park and enforcement powers will discourage dockless vehicles to be parked illegally and causing a wilful

obstruction to the highway. An EIA will be completed either by the leading authority of the trial (TfL) and by all participating boroughs.

8. Staffing Implications

8.1 There are no staffing implications arising from this report.

9. Human Rights Implications

9.1 There are no human rights implications arising from this report.

10. Energy Measure Implications

10.1 There are no energy measure implications arising from this report.

11. Communications Implications

11.1 Communication with Cabinet Member for Environment and Highways and other key stakeholders will continue throughout the future stages of the rental e-scooter trial.

Appendix B: Draft proposal for e-scooter rentals in London

Exempt from publication by virtue of Local Government Act 1972
Schedule 12A, Paragraph 3 (as amended)

Appendix C: E-scooters stakeholders engaged to date by Transport for London & London Councils