

ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)

Subject	Delegation of authority to make Pan-London Traffic Orders to London Councils Transport and Environment Committee
Cabinet Member	Cabinet Member for Environment
Date of Decision	11 April 2014
Date of decision comes into effect	11 April 2014

Summary	Delegation of authority to make and enforce pan-London traffic orders to the London Councils Transport and Environment Committee (TEC) to facilitate, in the first instance, the introduction of a new pan-London Safer Lorries scheme requiring minimum safety features for all HGVs over 3.5 tonnes
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Officer Contributors	Jane Shipman, Senior Engineer Re
Status (public or exempt)	Public
Wards affected	Not applicable
Enclosures	Appendix A – Letter from London Councils
Reason for exemption from call-in (if appropriate)	Not applicable
Key decision	No

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1. RELEVANT PREVIOUS DECISIONS

- 1.1 The Cabinet Member for Environment and Transport approved on 27 May 2009 by delegated powers (Delegated Powers Report No. 825) the execution of a Memorandum of Participation to give effect to a variation to the governing agreement of the London Councils Transport and Environment Committee (LC TEC).

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The three strategic objectives set out in the 2013 – 2016 Corporate Plan are: –
- Promote responsible growth, development and success across the borough.
 - Support families and individuals that need it – promoting independence, learning and well-being.
 - Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.
- 2.2 The proposed delegation to London Councils TEC would contribute to the ability of the borough to meet these objectives through pan-London traffic management proposals. The Safer Lorries initiative being considered in the first instance particularly addresses the priority “To maintain a well designed, attractive and accessible place, with sustainable infrastructure across the borough” and also, through the expected safety benefits, contributes to “creating better life chances for children and young people across the borough”, “sustaining a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health”, “promoting a healthy, active, independent and informed over 55 population in the borough to encourage and support our residents to age well” and “promoting family and community well-being and encourage engaged, cohesive and safe communities.”

3. RISK MANAGEMENT ISSUES

- 3.1 The delegation would permit London Councils to introduce pan-London traffic orders applying to borough roads. Consultation with the Authority is necessary before this is exercised and this should be sufficient to prevent introduction of orders not supported by the borough. The delegation can also be revoked by the Council at any time under the terms of the 2009 amendment.
- 3.2 Failure to make the delegation may harm the Council's reputation if it prevents or delays introduction or effective operation of appropriate pan-London safety or other traffic management proposals.

4. EQUALITIES AND DIVERSITY ISSUES

- 4.1 The Equality Act 2010 requires a decision-maker to have 'due regard' to achieving a number of equality goals: (i) to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; (ii) to advance equality of opportunity between those with protected characteristics and those without; and (iii) to foster good relations between persons with a relevant protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 4.2 The proposed delegation does not compromise the Council in its compliance with this statutory equality duty.

5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 5.1 There are no direct impacts on Finance, Procurement, Staffing, IT or Property through making the delegation. Agreement would allow the Council to work in partnership with other London authorities in a way that could be beneficial in terms of performance and value for money. Pan-London Traffic Orders could help deliver environmental sustainability improvements.

6. LEGAL ISSUES

- 6.1 London Councils Transport and Environment Committee (TEC) is a joint committee established under the Association of London Government Transport and Environment Committee Governing Agreement dated 13 December 2001 ("the TEC agreement"). It is responsible for the exercise of those functions delegated to it by the 33 London local authorities and Transport for London.
- 6.2 The governing agreement was last amended in 2009 and this amendment included changes to simplify the arrangements for delegating the exercise of additional functions to the TEC. It is therefore possible to delegate authority to the joint committee without a full variation to the TEC Agreement i.e. without a deed of variation needing to be agreed by all the participating authorities and TfL. This can be undertaken using the process under Schedule 2 Part 3(D) of the Agreement, which was introduced by a variation in June 2009 and permits authorities to take their decisions to delegate the specified functions to TEC and then confirm that decision to London Councils in writing.
- 6.3 In accordance with regulation 4 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, unless

otherwise directed by the Leader, a member of the Executive has the power to make arrangements for the discharge of an executive function by another relevant authority or another relevant executive.

7. CONSTITUTIONAL POWERS

- 7.1 In accordance with paragraph 10.02(b) of Article 10 of the Constitution, the Executive may establish joint arrangements with one or more local authorities for the purposes of exercising functions which are executive functions.
- 7.2 Under section 8 of Responsibility for Functions the Transport Committee for London agreement dated 15 January 1998 is identified as a joint arrangement for the discharge of functions which are the responsibility of the Executive. That agreement has been superseded by the TEC agreement.
- 7.3 The Constitution Part 3 Responsibility for functions section 4.2 identifies the responsibility of the Cabinet Member for Environment as leading on budget and policy formulation and implementation in relation to the environment and transport. The Cabinet Member for Environment is also responsible for “all matters relating to the development and management of the environment, including: ... road safety ... transport and transport initiatives ...”. Section 4.3 identifies Cabinet Members general powers as including discharging the executive functions that fall within their portfolio.
- 7.4 The Cabinet Member for Environment may therefore delegate functions falling within their portfolio to the London Councils TEC.

8. BACKGROUND INFORMATION

- 8.1 At its meeting on 13 March 2014, London Councils’ Transport and Environment Committee (TEC) agreed to the principle of creating a new pan-London traffic order requiring minimum safety features for all HGVs over 3.5 tonnes. They also decided to recommend that the London local authorities and TfL agree to amend the TEC Agreement to allow the making and enforcement of pan-London traffic orders. It is uncertain whether TEC currently has the delegated authority from the London local authorities to make such an order.
- 8.2 Consequently London Councils has written to London local authorities asking them to delegate authority to London Councils TEC to make and enforce pan-London traffic orders, following consultation with each authority.
- 8.3 The delegation being sought from each authority is intended to allow sufficient flexibility for TEC to develop the best approach with TfL and boroughs through the planned consultations in relation to the current proposal for a pan-London Safer Lorries scheme. The delegation could

however be applied to other pan-London orders in future. London Councils advise that the proposed TEC powers to promote pan-London traffic orders of this nature will be exercised very rarely and will only be used following proper consultation and subsequent TEC authority.

- 8.4 The proposed Safer Lorries Scheme would require all vehicles over 3.5 tonnes to have side guards and safety mirrors when driving in London to help reduce the number deaths and injuries resulting from collisions between vulnerable road users and Heavy Goods Vehicles (HGVs). A significant and disproportionate number of collisions involve HGVs, some of which are exempt from current national and European regulations on fitting safety features such as side guards and special proximity mirrors.
- 8.5 The planned wider consultations on the Safer Lorries scheme may identify issues for vehicles from further afield, although the cost and time required for retrofitting the necessary equipment is relatively modest. Some practical issues may result in the local context from the levels of signing that may be required as a result of the multiple restrictions, but these issues should be resolved through the scheme development process.

9. LIST OF BACKGROUND PAPERS

- 9.1 London Councils' Transport and Environment Committee 13 March 2014 Item No: 8 Safer Lorry Scheme

10. DECISION OF THE CABINET MEMBER(S)

I authorise the following action

- 10.1 To delegate authority to London Councils' Transport and Environment Committee to exercise the following functions on behalf of the London Borough of Barnet:

Make pan-London traffic order(s) under section 6 of the Road Traffic Regulation Act 1984, and all other enabling powers, where it is in the collective interests of the Participating Authorities, and TfL as relevant, such decision to be taken only after consultation with each of them. To provide for the implementation and enforcement of any order(s) so made including but not limited to the monitoring of the effectiveness of the said implementation and enforcement, the examination of vehicles, the issue of permits including the consideration of appeals arising from the refusal or conditioning of any such permits, the erection of adequate signs, liaison with the police, the prosecution of offences arising under such order(s) and any amendments approved from time to time, the updating of technical information on new vehicle designs, the taking of all necessary steps to promote and make amending, supplementary and other variation orders affecting the primary order(s) and the determination and implementation of policy and the giving of advice.

Signed **Councillor Dean Cohen**
Cabinet Member for Environment

Date **11/04/2014**