

	<h2>Environment Committee</h2> <h3>16 September 2014</h3>
<p style="text-align: center;"><b>Title</b></p>	<p><b>London Safer Lorries Scheme – revised delegation of authority to make traffic orders</b></p>
<p style="text-align: center;"><b>Report of</b></p>	<p>Declan Hoare, Lead Commissioner for Housing &amp; Environment</p>
<p style="text-align: center;"><b>Wards</b></p>	<p>All</p>
<p style="text-align: center;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>Appendix A - Delegated Authority Letter from London Councils (29 July 2014)</p>
<p style="text-align: center;"><b>Officer Contact Details</b></p>	<p>Declan Hoare, <a href="mailto:Declan.hoare@barnet.gov.uk">Declan.hoare@barnet.gov.uk</a> 020 8359 4320                  Jane Shipman, (Senior Engineer, Re),  <a href="mailto:jane.shipman@barnet.gov.uk">jane.shipman@barnet.gov.uk</a> 020 8359 7226</p>

<h2>Summary</h2>
<p>This report sets out the proposal to delegate authority to make and enforce traffic orders to the London Councils Transport and Environment Committee (TEC), to facilitate the introduction of a new pan-London Safer Lorries scheme in conjunction with Transport for London (TfL) requiring minimum safety features for all HGVs over 3.5 tonnes. This is in replacement of a previous delegation agreed in April.</p>

<h2>Recommendations</h2>
<p><b>1. That the Environment Committee resolve to delegate authority to London Councils’ Transport and Environment Committee (“the Committee”) to exercise the following functions on behalf of the London Borough of Barnet:</b></p> <p><i>To make one or more traffic regulation orders for the purposes of the implementation across Greater London of the London Safer Lorry Scheme (as that Scheme is approved and/ or amended from time to time by the Committee), 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, and a decision to make such an order(s) is to be taken only after consultation with each of them.</i></p>

*To provide for the implementation and enforcement of any traffic regulation 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 general or individual consents, permissions or permits (if any) including the consideration of appeals arising from the refusal or conditioning of any such consents, permissions or permits, the erection of adequate signs (however the Scheme is described on the signs), liaison with the police, the prosecution of any criminal offences or civil contraventions arising under such order(s) and any amendments to the order(s) 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 order(s) affecting the primary order(s) and the determination and implementation of policy and the giving of advice.*

- 2. That the Environment Committee revoke the delegation dated 11 April 2014 (published 14 April 2014) authorising the London Councils Transport and Environment Committee (TEC) to make and enforce pan-London traffic orders on behalf of the London Borough of Barnet.**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The proposed London 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.
- 1.2 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. It also recommended that London local authorities and TfL agree to amend the TEC Agreement to allow the making and enforcement of pan-London traffic orders to facilitate introduction of this Safer Lorries Scheme since it is uncertain whether TEC currently has the delegated authority from the London local authorities to make such an order.
- 1.3 London Councils wrote to every borough seeking agreement to delegate authority to London Councils' Transport and Environment Committee (TEC) to allow the making of a new London-wide traffic order, which would require all vehicles over 3.5 tonnes to have side guards and safety mirrors when driving in London (to help reduce the number of deaths and injuries resulting from collisions between vulnerable road users and Heavy Goods Vehicles (HGVs).
- 1.4 To give TEC the required powers to create the order, they need signed delegated authority on the same terms and using the same wording from all

33 London boroughs. The then Cabinet Member for Environment (exercising an Executive function) authorised the delegation in April 2014 on behalf of Barnet Council.

- 1.5 Although the original delegation wording was intended to facilitate the making of orders for the London Safer Lorry Scheme, it was worded in more general terms to allow flexibility in the development of the scheme, for example any changes the scheme title or scope following consultations and detailed design.
- 1.6 Concerns were raised by some boroughs that the delegated powers could be used for other purposes and one borough, maintained that whilst they support the principle of the scheme, they would not sign the proposed delegation unless the wording was changed.
- 1.7 On 17 July, TEC therefore agreed to revise the wording of the delegation so that all authorities would be in a position to sign. The revised wording now refers explicitly to the Safer Lorry Scheme.
- 1.8 Consequently approval is now sought to revise the terms of the delegation to London Councils Transport and Environment Committee.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The proposed delegation would allow progression of the Safer Lorries Scheme to help address road safety issues. While other approaches would be possible to introduce a pan London scheme London Councils and TfL officers have identified this as the best approach for this proposal.
- 2.2 Although the previous delegation could not be used by London Councils without identical delegation from all other boroughs it may be confusing to leave the previous delegation standing.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Not to make the delegation to London Councils TEC.
- 3.2 Not revoke the previous delegation.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Following agreement officers will confirm to London Councils that the delegation had been made in the agreed terms. With identical agreement from all authorities this will permit amendment of the TEC governing agreement and allow London Councils to promote the pan London traffic order for the scheme.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 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.

5.1.2 The delegation to London Councils TEC will contribute to the ability of the borough to meet these objectives through the pan-London Safer Lorries initiative. This would address the priority “To maintain a well designed, attractive and accessible place, with sustainable infrastructure across the borough” and also, through the expected safety benefits, contribute 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.”

5.1.3 The proposal would also contribute to the Health and Wellbeing Strategy theme “Keeping Well” by reducing the risk and perceived risk of serious injury to cyclists (and pedestrians) so encouraging activity.

## 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

There are no direct impacts on Finance, Procurement, Staffing, IT or Property through making the delegation. Agreement allows the Council to be included in this pan-London scheme in a way that could may be more beneficial than alternatives in terms of performance and value for money.

## 5.3 **Legal and Constitutional References**

5.3.1 In accordance with paragraph 8.01(a) of Article 8 of the Constitution, the Council may establish joint arrangements with one or more local authorities for the purposes of exercising functions which are executive functions.

5.3.2 Under section 8 of ‘Responsibility for Functions’ in the Constitution the London Councils Transport and Environment Committee Agreement dated 13 December 2001 is identified as a joint arrangement for the discharge of functions.

5.3.3 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.

5.3.4 The governing agreement was amended in 2009 to include 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.

- 5.3.5 Section 1 of Responsibility for Functions reserves to full Council delegation of significant functions to other local authorities or their executives. It does not refer explicitly to delegation to a joint committee. The current delegation is not considered significant, applying as it does to making one or more traffic regulation orders for a specific scheme (reducing the scope of the previous delegation).
- 5.3.6 Section 5 of Responsibility for Functions identifies that Committees are authorised to discharge all functions within their terms of reference except those referred to full Council. Annex A to Responsibility for Functions sets out the terms of reference for the Environment Committee which includes specific responsibilities for commissioning Road Safety, Transport & Traffic Management.

#### **5.4 Risk Management**

- 5.4.1 The delegation would permit London Councils to introduce a pan-London traffic order or orders in relation to the Safer Lorries Scheme which would apply to roads within the Borough. Prior to making any such order(s) the Council will be consulted and this should be sufficient to prevent the introduction of orders not supported by the London Borough of Barnet. The delegation can also be revoked by the Council at any time under the terms of the 2009 amendment.
- 5.4.2 Failure to make the delegation may harm the Council's reputation if it prevents or delays introduction or effective operation of the proposed Safer Lorries Scheme.

#### **5.5 Equalities and Diversity**

- 5.5.1 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.
- 5.5.2 The proposed delegation is not considered to compromise this.
- 5.5.3 An impact assessment has been prepared by TfL in relation to the Safer

Lorries scheme that identified a very small negative impact on black and minority ethnic (BAME) groups working in this sector as a result of these groups generally being over-represented as owners of small and medium enterprises.

- 5.5.4 Larger firms can absorb the necessary costs to make the required changes than small firms but the cost of necessary equipment is low. Smaller firms could also benefit from fitting the additional safety equipment as it would enable their business to qualify for contracts which require higher safety standards.

## 5.6 Consultation and Engagement

- 5.6.1 An informal non-statutory consultation on the London Safer Lorry Scheme is planned by TfL this summer. This will provide an opportunity for the industry, the public and other stakeholders to comment on the proposal and will allow London Councils and TfL to use these views to inform the further development of the scheme. The results of this informal consultation will be presented at TEC in October, and will inform TEC's decision as to whether to commence the statutory order-making process.
- 5.6.2 Should the proposal proceed it is a legal requirement to give public notice of the proposal and carry out formal statutory consultation on the proposed traffic order(s) which would implement the scheme. As part of the statutory consultation process, any orders may be subject to a public inquiry. TfL therefore plans to hold a public inquiry prior to the commencement of the formal statutory consultation. This would be likely to take place in late 2014.
- 5.6.3 Following the public inquiry, a formal statutory consultation would then be carried out and reported to TEC to help inform their decision on whether to make the order.

## 6. BACKGROUND PAPERS

- 6.1 The Cabinet Member for Environment agreed on 11 April 2014 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. <http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?Id=5240> refers.
- 6.2 London Councils' Transport and Environment Committee 13 March 2014 Item No: 8 Safer Lorry Scheme  
[http://www.londoncouncils.gov.uk/committees/agenda.htm?pk\\_agenda\\_items=5606](http://www.londoncouncils.gov.uk/committees/agenda.htm?pk_agenda_items=5606) refers
- 6.3 London Councils' Transport and Environment Committee 17 July 2014 Item No: 8 Safer Lorry Scheme  
[http://www.londoncouncils.gov.uk/committees/agenda.htm?pk\\_agenda\\_items=5700](http://www.londoncouncils.gov.uk/committees/agenda.htm?pk_agenda_items=5700) refers.