Appendix B to Cabinet Report – HDV Fund Mitigation M4

Date of Decision: **26th June 2018**
SUBJECT: **TACKLING AIR QUALITY IN BIRMINGHAM – CLEAN AIR ZONE CONSULTATION**

4.3   Legal Implications

4.3.1. Under the general power of competence per Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report and are within the boundaries and limits of the general power of competence Section 2 and 4 of the Localism Act 2011.

4.3.2 The Government is set to mandate Birmingham to introduce a Clean Air Zone (CAZ) under the Environment Act 1995 (Birmingham City Council) Air Quality Direction 2017 by December 2019 to enable compliance with EU Air Quality targets by 2020. The minimum vehicle standards will be Euro 6 level for diesel vehicles and Euro 4 for petrol vehicles. Increased use of electric vehicles will support the City in achieving compliance and this project in turn supports this transition.

4.3.3 The Council is empowered to introduce a Clean Air Zone pursuant to powers in the Transport Act 2000, subject to first carrying out appropriate consultation and giving consideration to whether it is necessary to hold a public inquiry.

4.3.4 Under the Environment Act 1995, a Ministerial Direction was issued to Birmingham and four other UK cities (Derby, Leeds, Nottingham and Southampton) on 19 December 2017, and came into force the following day. The Direction stipulates that Birmingham shall prepare a full business case for a scheme to deliver compliance with legal limits by 15th September 2018 in line with the UK Air Quality Plan (AQP). The City Council now has a statutory duty to comply with this direction.

4.3.5 Failing to take action towards achieving compliance within the shortest possible time would leave the City Council totally exposed to legal challenge, not only for a failure to comply with its statutory duty to comply with the Ministerial direction, but also its obligation under air quality legislation to achieve compliance with legal NO2 limits in the shortest possible time.