

BIRMINGHAM CITY COUNCIL

CABINET MEMBER AND CHIEF OFFICER

FRIDAY, 14 MAY 2021 AT 00:00 HOURS
IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

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- 1 **CLEAN AIR ZONE AGREEMENT WITH THE SECRETARY OF STATE**
FOR TRANSPORT FOR THE PROVISION OF THE CLEAN AIR ZONE
SERVICE

Item Description

Birmingham City Council

Report to the Cabinet Member, Transport and Environment

14th May 2021



Subject: Clean Air Zone Agreement with the Secretary of State for Transport for the Provision of the Clean Air Zone Service

Report of: Acting Director Inclusive Growth

Relevant Cabinet Member: Councillor Waseem Zaffar – Transport and Environment

Relevant O & S Chair(s): Councillor Liz Clements – Sustainability and Transport

Report author: Stephen Arnold – Head of Clean Air Zone
Email: Stephen.Arnold@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Appendix A – Exempt Information 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information).		

1 Executive Summary

- 1.1 The purpose of this report is to seek approval to enter into an agreement (the CAZ Agreement) with the Secretary of State for Transport. The CAZ Agreement relates to the provision of the Clean Air Zone (CAZ) Service by the Secretary of State, to the Council, for the purpose of the CAZ operation.
- 1.2 The Joint Air Quality Unit (JAQU), a joint venture between the Department for Transport (DfT) and the Department for Environment, Food and Rural Affairs (Defra), has established the CAZ Service to be used by any local authority in England that establishes a CAZ. The CAZ Service will determine whether a

vehicle is compliant with the relevant CAZ emissions standards (in Birmingham's case, those associated with a CAZ type D as specified in the Birmingham Clean Air Zone Charging Order 2021) and allow payments to be made to enter a CAZ. The Council will use these services to assess the compliance of each vehicle that enters the zone, determine whether a charge has been paid if required, and subsequently determine if the issuing of a penalty charge notices (PCNs) is appropriate. The CAZ Service has three main components which are:

- 1.2.1 an online vehicle compliance checker (VCC) which determines if a vehicle complies with the CAZ emissions standards and if a charge should be paid,
 - 1.2.2 an online payment portal through which all payments for use of the CAZ will be made, and
 - 1.2.3 a central helpdesk for central CAZ queries and digital assisted payments.
- 1.3 On 19th January 2021 Cabinet approved the decision to delegate authority to the Cabinet Member for Transport and Environment, in consultation with the Acting Director, Inclusive Growth, to finalise and enter in to a CAZ Agreement with the Secretary of State for Transport for the provision of the Clean Air Zone Services required to operate the CAZ.
- 1.4 In accordance with Cabinet's previous recommendations this report seeks approval to enter the CAZ Agreement contained in Exempt Appendix A.

2 Recommendations

- 2.1 Approves the entering of the CAZ Agreement contained in Exempt Appendix A.
- 2.2 Notes that the CAZ Data Sharing Agreement (DSA), relating to the sharing of personal data required for the CAZ Service to operate, was entered in to on the 29th March 2021. This was done in advance of the completion of the CAZ Agreement to allow systems integration and testing to commence.
- 2.3 Notes that the CAZ Service requires the use of GoCardless Ltd as a direct debit payment services provider, and Stripe Payments Europe Ltd as a card payment service provider, and the Council will therefore enter into agreements with those organisations in accordance with the necessary governance protocols.
- 2.4 Notes that the CAZ Agreement establishes a co-operation between the participating contracting authorities with the aim of ensuring that the public services they must perform are provided with a view to achieving objectives they have in common. As such, the CAZ Agreement is not required to be subject to a procurement exercise. Further information is in paragraph 7.2.
- 2.5 Authorises the City Solicitor (or their delegate) to complete any documentation necessary to give effect to any of the above recommendations.
- 2.6 Approves, in accordance Part D2.3vii of Birmingham City Council's Constitution, an exemption to the standing order Part D2.10i to enabling the CAZ Agreement

to be signed as opposed to being signed and sealed as would have been required under Part D210i of the Constitution.

3 Background

- 3.1 The Council has been working to implement the CAZ since approval of the Full Business Case (FBC) by Cabinet in December 2018 and receipt of funding for the programme from Central Government in March 2019.
- 3.2 Following delays experienced by Central Government in delivering their systems for enforcement (the complete CAZ Service), and more recently due to the impacts of COVID-19, the launch date for the CAZ was agreed to be 1st June 2021.
- 3.3 In the most recent CAZ report to Cabinet - the Birmingham Clean Air Zone (CAZ) Update to Cabinet on Digital and Physical Infrastructure Development, Air Quality Monitoring, and Income and Expenditure Forecast report - it was noted that the Council will be required to enter into agreements with the Secretary of State for Transport for the provision of the CAZ Services. These agreements were being drafted by JAQU, on behalf of the Secretary of State, at the time that report was submitted and consequently could not be presented to Cabinet for approval. As a result, delegated authority was requested from Cabinet as detailed in paragraph 1.3 to allow these agreements to be entered into in a timely manner following their completion .
- 3.4 Also in the Update to Cabinet, it was noted that the fees to pay for the Council's use of the Clean Air Zone Services provided by the Secretary of State for Transport, through JAQU, will be recovered using a Statutory Instrument (SI namely the Clean Air Zones Central Services (Fees) (England) Regulations 2020 (SI 2020/1444). The fee is calculated on a per transaction basis which levies a £2 fee per charge per transaction.
- 3.5 A City Council full business case (FBC) detailing the digital and physical infrastructure required to establish and enforce the CAZ was reported to and approved by Cabinet on 8th September 2020. The FBC captured the process by which the Council will capture the details of those who have entered the CAZ through the use of Automatic Number Plate Recognition (ANPR) cameras. The details captured, and specifically the Vehicle Registration Marks (VRMs), will be sent on a regular basis to the CAZ Service which will respond with:
 - I. information regarding the compliance of the vehicles associated with those VRMs,
 - II. information regarding whether a payment has been made to enter the CAZ on any given day within the specified payment window, and
 - III. further information identifying the vehicle such as make, model and colour.

- 3.6 The Council will use this information to monitor the CAZ and enforce against users in non-compliant vehicles who do not pay the appropriate charge. The CAZ Agreement in Exempt Appendix A sets out the terms upon which the Secretary of State for Transport will provide the CAZ Services to the Council.

4 Options Considered and Recommended Proposal

- 4.1 The CAZ Agreement is integral to the operation of the CAZ and is necessary to secure the provision CAZ Services for use by the Council, and to give the Council confidence that the service performance will be adequate and a means for recourse if not. To not enter into the CAZ Agreement would lead to significant uncertainty for the Council, adding risk to enforcement and therefore achieving compliance with the Ministerial Direction (see paragraph 7.2.2), and is not a viable option. The risks are set out in paragraph 6.1 and 6.2 of this report. It is therefore recommended that the Council enters into the CAZ Agreement with the Secretary of State for Transport.

5 Consultation

- 5.1 A statutory public consultation was undertaken in relation to the CAZ by the Council between July and August 2018. The consultation exercise involved 10,392 respondents along with 386 organisations and businesses.
- 5.2 No specific consultation is required in relation to the CAZ Agreement. Officers from legal, finance and corporate procurement have been consulted on this report.

6 Risk Management

- 6.1 The main risks to the Council which the CAZ Agreement addresses relate to any loss of access to the CAZ Services. Without those services, the Council would be unable to determine the compliance of vehicles or whether a payment had been made in relation to specific vehicle. The CAZ Agreement includes service level agreements and key performance indicators which specify minimum service availability and performance requirements, including accuracy of information.
- 6.2 Other risks addressed by the CAZ Agreement include: removing confusion between the parties regarding roles, responsibilities and liabilities, defining the service specification for key systems interfaces, and formalising invoicing arrangements for payments required in relation to The Clean Air Zones Central Services (Fees) (England) Regulations 2020.
- 6.3 The CAZ Agreement includes provisions to encourage continuous service improvement with a particular focus on the period following go-live to ensure support is readily on hand. As the second CAZ to go-live in England, and the only CAZ type D, the continuous improvement requirements in the CAZ Agreement will create a collaborative framework for the ongoing cooperation required between parties which will be key for addressing risks and issues.

- 6.4 Risks regarding service performance and monitoring will be managed by the CAZ team at the regular programme board meetings and escalated to the CAZ Service Performance Board as necessary.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 The recommended decisions are consistent with the City Council's priorities, plans and strategies because they enable the CAZ to operate. The CAZ itself is consistent with the City Council's Plan 2018-2022 (2019 update) as outlined below.
- 7.1.2 Birmingham is the second city within the UK to implement a CAZ, and the very first to operate a Charging CAZ type D. It is at the forefront of change in this area and will set the bar for future cities which wish to tackle air quality for their citizens.
- 7.1.3 Birmingham is an entrepreneurial city to learn, work and invest in. The Clean Air Zone and associated grant funds encourage investment in compliant methods of transportation.
- 7.1.4 Birmingham is a fulfilling city to age well in. Improving air quality will have a direct impact on the health and wellbeing of citizens and visitors to the city centre. People are encouraged and financially incentivised to use public transport or upgrade their vehicles rather than commuting in non-compliant vehicles, or cycle or walk.
- 7.1.5 Birmingham is a great city to live in. The CAZ will directly improve air quality in the city centre. This is a further step on the way to a clean and sustainable city.
- 7.1.6 Birmingham is a city that takes a leading role in tackling climate change. The scheme supports the Additional Climate Change Commitments agreed by Cabinet on 30th July 2019 following the motion on Climate Emergency being passed at the meeting of the City Council on the 11th June 2019, including the aspiration for the City Council to be net zero-carbon by 2030.

7.2 Legal Implications

- 7.2.1 The requirement of air quality compliance was imposed upon the UK by the EU Ambient Air Quality Directive(b) and upon the Council by the Environment Act 1995 (Birmingham City Council) Air Quality Direction 2019.
- 7.2.2 The Secretary of State for the Department of Environment, Food and Rural Affairs issued a Ministerial Direction in March 2019 which required that the Council implement its plans so that compliance within the legal

limit value for Nitrogen Dioxide is achieved in the shortest possible time, and by 2021 at the latest. The Council remains subject to this Direction.

- 7.2.3 The CAZ Agreement will be entered into pursuant to Regulation 12(7) of the Public Contract Regulations 2015 and as such does not require a procurement exercise. The CAZ Agreement for the provision of the CAZ Services seeks to establish co-operation between the Secretary of State for Transport and the Council with the aim of ensuring the achievement of the common objective of air quality compliance. The service will be provided on a cost-recovery basis.
- 7.2.4 A DSA, which is supplementary to the CAZ Agreement, has previously been agreed to enable integration between the Council's systems and the CAZ Service to be completed.
- 7.2.5 Under Section 111 Local Government Act 1972, the Council has power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Therefore, the Council has a general power to enter into the CAZ Agreement in Exempt Appendix A in order to discharge its responsibility under the March 2019 Ministerial Direction.
- 7.2.6 The Council will be required to publish a privacy notice on its website in addition to its existing privacy statement to inform CAZ users of how information is collected and how it is used. To inform this JAQU will provide a joint privacy notice which sets out the responsibilities of both parties in relation to the sharing and processing of personal data in accordance with the DSA in Exempt Appendix A.
- 7.2.7 Risks associated with the DSA in Exempt Appendix A are detailed in section 6.
- 7.2.8 Birmingham City Council's Constitution at Part D2.10i requires contracts for services which exceed £1m in value to be sealed with the Common Seal of the Council and executed by a contractor as a deed. The Council will not be able to comply with this provision.
- 7.2.9 DfT have an internal protocol for agreeing contracts and deed execution. DfT decided to not to sign and seal the CAZ Agreements with all the Local Authorities as deeds but to sign them as contracts and inserted a consideration clause for a nominal sum of one pound into the CAZ Agreement to obviate the need for sealing. The above decision followed a previous decision of DfT to only seal contracts above a certain threshold and prioritise matters which were estates-related. This decision was made having taken into consideration the difficulties government departments were having in sealing documents, as a result of lockdown.
- 7.2.10 Following DfT's decision regarding the CAZ Agreement, an exemption is sought to Part D2.10i of the Constitution, pursuant to Part D2.3vii, to

enable the agreement to be signed as opposed to signed as sealed as a deed as would have otherwise been required by Part D2.10i

- 7.2.11 Part 2.3vii states “Exemption from any Standing Order may be authorised by the Decision Maker PROVIDED THAT the Decision Maker is satisfied that the exemption is justified by special circumstances and the Decision Maker records in writing the ground(s) for being so satisfied as part of that decision.”
- 7.2.12 The circumstances have been set out in this report, in particular DfT objection to sealing and the need to enter into the CAZ Agreement. It should be noted that there are different limitation periods for simple contracts and contracts executed as deeds by which actions (such as breach of contract) should be brought. For simple contracts the time period is 6 years and for contracts executed as deeds the time period is 12 years. Although there is a disadvantage to the contract being signed it should be taken into account that both parties to the agreement are public bodies so the likelihood of pursuing legal action against the other is not as high as it would be if the other party was a private organisation.

7.3 Financial Implications

- 7.3.1 The decisions in this report relate specifically to entering into a CAZ Agreement (in Appendix A – Exempt Information) with the Secretary of State for Transport. There are no direct capital or revenue implications associated with agreement to the CAZ Agreement.
- 7.3.2 Were the Council not to agree to the CAZ Agreement it would not have secured the CAZ Services which may jeopardise the CAZ operation and therefore the Council’s ability to meet its air quality objectives. The Council remains subject to a Ministerial Direction, as noted in paragraph 7.2.2, and may face financial penalties were it not able to meet the legal limits for Nitrogen Dioxide set out in that Direction.
- 7.3.3 The Council has forecast income and expenditure expectations, as reported to Cabinet in January 2021, which could be impacted should the CAZ Services not be secured. The Council has also invested significant capital expenditure, funded by a government grant, into the infrastructure to support and operate the CAZ; not agreeing to the CAZ Agreement could, in the extreme, lead to abortive costs and the requirement for unscheduled decommissioning works.
- 7.3.4 Fees to pay for the CAZ Services are not imposed through the CAZ Agreement itself, but rather through conditions imposed by an SI (the Clean Air Zones Central Services (Fees) (England) Regulations 2020 (SI 2020/1444)). The fee is calculated on a per transaction basis which levies a £2 fee per charge per transaction made through the CAZ Service. These charges are classed as CAZ operating expenditure and as such are funded from CAZ proceeds.

7.3.5 Whilst the fees for the CAZ Service are imposed through a separate mechanism (the SI), arrangements for invoicing are detailed in the CAZ Agreement.

7.4 Procurement Implications

7.4.1 There are no procurement implications in respect of this particular agreement as noted in paragraph 7.2.3. Any subsequent procurement activity will be subject to the Council's delegated procurement procedures.

7.5 Human Resources Implications

7.5.1 There are no human resource implications.

7.6 Public Sector Equality Duty

7.6.1 An Integrated Impact Assessment (IIA) was undertaken as part of the CAZ feasibility study. The IIA assessed the economic and health impacts of the introduction of a Charging CAZ and identified certain economically vulnerable groups which formed the basis for developing a series of mitigation measures (including exemptions and financial incentives).

7.6.2 As with the IIA, an Equality Impact Assessment (EQUA210) was undertaken, the EIA was reviewed and updated in December 2020 to ensure it remains current and aligned to CAZ initiatives. Details of the full assessment can be found in Appendix B. The assessment identifies a set of actions aimed at mitigating risks to service users and employees in the protected characteristic groupings. No additional impact assessments were undertaken in relation to the CAZ Agreement in Appendix A.




8 Appendices

8.1 Appendix A – Exempt Information. CAZ Agreement with the Secretary of State for Transport for the Provision of the CAZ Services

8.2 Appendix B – Equality Impact Assessment (EQUA210).

9 Background Documents

- Birmingham Clean Air Zone Submission of Full Business Case and Request to Proceed with Implementation, Cabinet Report 11th December 2018.
- Birmingham Clean Air Zone (CAZ): Implementation Of Main CAZ Infrastructure – Civil Engineering And Cameras Solution - Full Business Case (FBC), Cabinet Report 8th September 2020.
- Birmingham Clean Air Zone (CAZ) Update to Cabinet on Digital and Physical Infrastructure Development, Air Quality Monitoring, and Income and Expenditure Forecast, Cabinet Report 19th January 2021.

Title of proposed EIA	Birmingham Clean Air Zone submission of FBC and request proceed with implementation
Reference No	EQUA210
EA is in support of	New Function
Review Frequency	Annually
Date of first review	01/12/2021
Directorate	Inclusive Growth
Division	Transport and Connectivity
Service Area	Clean Air Zone Team
Responsible Officer(s)	 Naomi R Coleman
Quality Control Officer(s)	 Janet L Hinks
Accountable Officer(s)	 Stephen Arnold
Purpose of proposal	To proceed with implementation of Birmingham Clean Air Zone, aligned to the Full Business Case
Data sources	Survey(s); Consultation Results; Interviews; relevant reports/strategies; Statistical Database (please specify); relevant research; Other (please specify)
Please include any other sources of data	Distributional Impact Appraisal (DIA), Health Impact Assessment (HIA)

ASSESS THE IMPACT AGAINST THE PROTECTED CHARACTERISTICS

Protected characteristic: Age	Service Users / Stakeholders; Employees; Wider Community
Age details:	<p>Children, young people and the elderly can be more vulnerable to air pollution and would be more likely adversely affected by any reduction in the availability of community transport servicing schools and community centres within the CAZ. Self evidently such groups are more reliant on public transport than the general population. They could also be adversely affected by the increased cost of community transport particularly if this prevented them accessing schools and community centres within the CAZ, if it prevented families of patients at Birmingham Children's Hospital from visiting them during their stay.</p> <p>A high proportion of elderly people have limited mobility and therefore could be adversely affected by implementation of the CAZ if it were to result in the reduction in availability of community transport and taxis, and also the potential increase in cost of community transport and private vehicle travel.</p> <p>A Defra commissioned study in 2006 showed that there is a tendency for higher relative mean annual concentrations of NO₂ and PM10 in the most deprived areas of the country. In areas which exceed emissions standards, the correlation is stronger. The most vulnerable human receptors include young people and the elderly. A report published by the Royal College of Physicians finds that children living in high pollution areas are four times more likely to have reduced lung function when they become adults (Royal College of Physicians, 2016.).</p>

The entire CAZ has a very low proportion of people over the age of 65 by LSOA relative to distribution across England and Wales and there is no variation in the proportion of people over the age of 65 within the CAZ. The areas with greater proportions of elderly people are in the Sutton Coldfield area in the northern part of Birmingham and the Northfield/Selly Oak areas to the south. This suggests that the elderly population is unlikely to be disproportionately affected by changes incurred within the CAZ.

Where transport is not provided by the school or local authority, then there could be a differential adverse impact on children attending special educational needs schools if the introduction of the CAZ discourages or prevents families from accessing these schools. However, based on School Travel Plan monitoring within the CAZ area the level of trips to school by non-car modes is generally quite high.

There are also several community centres within the CAZ that have been identified as providing services used principally by children and which may require transport to and from the premises. These include St Martin's Youth Centre and community centres associated with schools in the CAZ area such as Al-Rasool School and St George's Academy.

Community transport vehicles are typically older and liable to incur the CAZ charge. As community centres are typically funded either partially or fully by charitable donations, they are unlikely to have sufficient cash reserves to upgrade to a compliant vehicle. Therefore, they may have to either increase the cost or reduce the availability of their travel services as a result of the CAZ charge. This would have a differential adverse impact on children using these services.

BCC Procurement contracts for SEN and Community transport specify the requirement for CAZ compliant vehicles no sooner than July 2020.

However, where Community and School transport is registered as section 19 or section 22 for operation in Birmingham and not registered as a Hackney Carriage or Private Hire Vehicle they will be exempt from the CAZ charges for 1 year.

Birmingham Licensed taxis that undertake BCC SEN and Community transport services or any other BCC transport contracts are excluded from exemption, as they are already required to be CAZ compliant from January 2020 in order to meet the Birmingham Licensing Authority policy criteria. Likewise, any other external Local Authority licensed taxi vehicle used to service a contract procured by BCC to deliver SEN and Community Transport (whether section 19 or otherwise) would need to meet CAZ compliance standards of Euro 6 diesel or Euro 4 petrol as a minimum.

All facilities of importance within the air quality modelling area for the preferred CAZ option would experience a decrease in NO₂ concentrations to some degree. The degree of increase or decrease in NO₂ concentrations has been modelled to show impacts following implementation of the preferred CAZ option relative to locations of facilities of importance to children as described above. The greatest

Protected characteristic: Disability

Disability details:

decreases in average NO₂ concentrations are generally seen within the CAZ areas itself and surrounding major arterial roads as they extend out of the CAZ, which is also where average NO₂ concentrations are highest under the Do Minimum scenario.

By introducing exemptions, the residual effect is anticipated to be neutral as affected vehicles would be exempted.

Service Users / Stakeholders; Employees; Wider Community

The presence of a higher disability ratio may indicate a high proportion of people sensitive to air quality due to some long term illnesses (especially respiratory). The disabled are also more likely to have concerns over personal security, i.e. more reluctant to travel via taxi or public transport and will therefore be more heavily reliant on private transport.

The CAZ includes areas where there are a high proportion of disabled residents based on the comparative illness and disability ratio component of the Index of Multiple Deprivation. The central north section as well as the southern west part of the CAZ includes the highest proportion of disabled residents in the CAZ. There is only a small section within the centre with a low proportion of disabled residents.

The 2011 Census reported that 9% of the population of Birmingham (98,181 people) reported a long term health problem or disability that was significantly limiting their day-to-day activities. A similar percentage of the population reported their day-to-day activities were slightly limited by health problem or disability. The official labour market statistics state that the total number of people claiming disability living allowance in Birmingham is 43,920 (approximately 4% of the population).

The population of the young, the old and disabled exhibit a higher proportion of persons who are more sensitive to poor AQ. AQ are known to be more sensitive to poor air quality and the implementation of the Clean Air Zone will have positive impacts for those in the CAZ area and the wider city.

There are a number of exemptions and mitigations which will be available to support disabled people who live or need to travel into the Clean Air Zone and who would be adversely affected by the charges. These will be specifically targeted towards CAZ residents, low income groups and those visiting specified medical facilities.

Vans and mini buses registered as providing essential community and school transport services and those classified as section 19 or section 22 operators in Birmingham will also be exempt for 1 year from the date of CAZ implementation.

The reliance on Wheelchair Accessible Hackney Carriages is also noted and proposals to support the uptake of compliant models of these vehicles is also proposed to ensure the continued availability of this service.

Vehicles within the disabled passenger vehicle tax class will be exempt from paying a charge in a Clean Air Zone. As noted, vehicles registered as providing essential community

<p>Protected characteristic: Sex</p> <p>Gender details:</p>	<p>and school transport classified as section 19/22 operators in Birmingham will also be exempt for 1 year from the date of CAZ implementation.</p> <p>Service Users / Stakeholders; Employees; Wider Community</p> <p>There is a very low proportion of female residents throughout the majority of the CAZ. There is a higher proportion of female residents in a small section in the southern part of the CAZ (Digbeth area) and one area, north east of the centre which includes a high proportion of female residents. This is in the vicinity of the Birmingham Children's Hospital and the high proportion of female residents is assumed to be due to the presence of key worker accommodation on the hospital site. Much of the remaining CAZ area has a low proportion of female residents by LSOA relative to distribution across England and Wales.</p> <p>Notwithstanding the above, the DIA has identified that there could be a disproportionate and differential impact on women, who as a group are more frequent users of taxis and have a more negative perception or experience of alternative modes of public transport and active travel modes (walking and cycling).</p> <p>Specific mitigation measures are not being proposed on the basis of gender. However a number of the mitigation measures being proposed will serve an indirect benefit to women; the mitigation for taxis, PHV etc would help mitigate potential impacts on women by maintaining availability of taxis and PHV. Also, exemptions for CAZ workers likely to benefit women, who are disproportionately represented in these roles (nursing, care workers etc).</p>
<p>Protected characteristics: Gender Reassignment</p> <p>Gender reassignment details:</p>	<p>Service Users / Stakeholders; Employees; Wider Community</p> <p>The DIA notes that "There are potential differential impacts on security [in relation to people with gender reassignment as a consequence of some public attitudes which may affect transport preferences. However, the scale of this issue is not known and based on anecdotal evidence."</p> <p>It was difficult to find sufficient evidence or studies to provide robust research on this. However it is considered that people with this protected characteristic are more likely to experience, or be concerned about, antisocial behaviour or hostility towards them which may influence whether they are comfortable using public transport or would be more likely to use taxis or own vehicles.</p> <p>By assumption, therefore, any reduction in PHV and taxis may adversely affect people with this protected characteristic, so the mitigation measures to support the PHV and taxis are beneficial to gender reassignment by helping to ensure that people do not leave the taxi and PHV businesses, therefore ensuring the continued availability of this form of transport for people who do not feel safe using public transport.</p>
<p>Protected characteristics: Marriage and Civil Partnership</p> <p>Marriage and civil partnership details:</p>	<p>Not Applicable</p>

<p>Protected characteristics: Pregnancy and Maternity</p> <p>Pregnancy and maternity details:</p>	<p>It is not considered that the introduction of a CAZ will negatively impact individuals who are married or in a civil partnership.</p> <p>Service Users / Stakeholders; Employees; Wider Community</p> <p>There are health inequalities associated with pregnancy and air quality. The DIA notes that there is emerging evidence on the links between high levels of emissions and effects on the unborn child. Evidence shows that air pollution can affect the growth of the unborn baby and may be linked to premature birth or even still birth. It is estimated that traffic-related air pollution exposure (particularly exposure to PM) of pregnant women accounts for more than one-fifth of all cases of low birth weight at term. Low birth weight is associated with low lung function, COPD, cardiovascular disease and early death in adulthood. Air pollution can also harm placental development, which affects the development of the unborn child and has been associated with several chronic diseases including heart disease, obesity and type 2 diabetes. Poor foetal growth is linked to abnormal development of the kidneys, and to hypertension and kidney disease in later life.</p> <p>It is thought that the introduction of a Clean Air Zone will have a positive impact to pregnant women and those on maternity leave with small children.</p> <p>A specific mitigation measure is not proposed for this group; however, it is noted that there are potential impacts related to accessibility to key facilities e.g. the Children's Hospital and a specific mitigation measures to support visitors and patients are proposed.</p>
<p>Protected characteristics: Race</p> <p>Race details:</p>	<p>Service Users / Stakeholders; Employees; Wider Community</p> <p>Compared to England and Wales, much of Birmingham has a high proportion of its population that identifies as Black, Asian and Minority Ethnic (BAME). There is a generally high concentration of Birmingham's BAME population to be found in the central part of Birmingham, with the highest concentrations to the east (Hockley, Winson Green and Handsworth areas) and west of the CAZ (Sparkbrook, Small Heath and Bordesley Green areas). The areas with the lowest proportion of BAME population are the Sutton Coldfield area in the northern part of Birmingham and the Northfield/Selly Oak areas to the south, but these still comprise populations in the top 40% proportion of BAME population compared to England and Wales as a whole.</p> <p>There are however high proportions of LSOAs within the CAZ with high levels of income deprivation and BAME communities. Key issues are therefore likely to relate to travel within the CAZ and the proportion of residents within the CAZ that have non-compliant vehicles who would not be able to avoid the zone.</p> <p>The DIA notes that the impact on the taxi trade could have consequential impacts for BAME and low income communities, since a very high proportion of taxi drivers are from communities with a high proportion of non-white residents and income deprived residents. Since taxis in</p>

Birmingham are all wheelchair accessible, whereas currently none of the private hire taxis are, a reduction in this type of vehicle will have an adverse impact on disabled people who may depend on them for access.

As such, a number of mitigation measures being proposed are targeted at providing support for drivers of both Hackney Carriages and Private Hire Vehicles as detailed in the initial Equality Impact Assessment below.

There would be an overall beneficial health impact within the study area under the preferred CAZ option and all other options, however, the magnitude of benefit would be greatest under the preferred CAZ option. When income distribution is considered relative to England and Wales, residents of those LSOAs which fall within quintile one for income deprivation would experience a disproportionately greater amount of the benefits associated with reductions in atmospheric concentrations of all three pollutant types (NO₂, PM₁₀ and PM_{2.5}) than those within less deprived quintiles.

Protected characteristics: Religion or Beliefs

Religion or beliefs details:

Service Users / Stakeholders; Employees; Wider Community

According to the 2011 census, Christianity was the highest represented religion in Birmingham with 46% of residents saying they were Christian. Whilst 22% of the population were Muslim and 19% had no religious beliefs.

The majority of people classifying themselves in one of the White or Black ethnic groups said that they were Christian, whereas the Muslim community was predominantly made up from the Asian population. In general, the Muslim population are concentrated closer to the city centre area with the Christian group generally further out towards the council boundary.

Within the proposed CAZ area there are 30 registered places of worship, including Roman Catholic, Presbyterian, Church of England, Greek Orthodox Churches, Synagogues, Mosques and Sikh Temples. Most are of a size that suggests their catchment is highly localised. However, Birmingham Central Mosque is an exception with a capacity of 20,000 and regularly attracts more than 4,000 worshippers for Friday services, suggesting that it attracts a significant number of visits from outside the CAZ area on a regular basis. Other places of worship with a significantly larger than average capacity (greater than 500 spaces) within the CAZ area include the Anglican, Greek Orthodox and Catholic Cathedrals, Camp Hill Seventh Day Church, Ladywood Seventh Day Adventist Church and Birmingham City Church.

The DIA includes an analysis of the distribution of different faith populations across Birmingham. This did not indicate any pronounced issues regarding the distribution of populations and the CAZ. Therefore the analysis looked more closely at the location of large places of worship that would require people to travel across the CAZ boundary.

Mitigation measures are not being proposed specifically for faith groups as there is no direct correlation between religion and ability to comply with the requirements of the Clean Air Zone.

Protected characteristics: Sexual Orientation

Sexual orientation details:

Further measures to work with faith and community groups on travel planning is also included within the proposed mitigations.

Not Applicable

It is not considered that the CAZ scheme is likely to disadvantage individuals based on their sexual orientation.

However, similar to gender reassignment, any reduction in PHV and taxis may adversely affect people with this protect characteristic, so the mitigation measures to support the PHV and taxis are beneficial by helping to ensure that people do not leave the taxi and PHV businesses, therefore ensuring the continued availability of this form of transport for people who do not feel safe using public transport.

Socio-economic impacts

Please indicate any actions arising from completing this screening exercise.

The mitigations and exemption packages are detailed in the Initial Equality Impact assessment below.

Please indicate whether a full impact assessment is recommended

YES

What data has been collected to facilitate the assessment of this policy/proposal?

A Distributional Impact Appraisal and a Health Impact Assessment were completed as detailed in the Initial Equality Impact Assessment below. The attached document should be read together with this EIA.

Consultation analysis

A public consultation on the Clean Air Zone proposals was launched on Wednesday 4th July 2018 and ran for 6 weeks until Friday 17th August 2018.

The consultation questionnaire asked for details about the respondents so we would be able to know how well people with each protected characteristic were represented among the respondents. The consultation report (published as part of the report to Cabinet on September 10th 2018) provided an overview of the overall demographics of those who responded compared to the general population. This suggested favourable levels of engagement from different communities across the city.

The aim of the consultation process was to seek feedback from individuals and organisations on the proposals for a Class D Clean Air Zone (CAZ) for Birmingham. Specifically identifying:

- Feedback and thoughts on all aspects of the CAZ proposals (including the principle of the proposals);
- Develop a better understanding of the impact that the proposals would have on individuals and organisations;
- What support/mitigation is needed for particular groups of people/organisations; and
- Suggestions for any further measures which were not included.

A programme of engagement which has taken place during 2019 is shown below.

Date	Event	Background	Event type
20/6/2019			

	Clean Air Day event at Birmingham Cathedral	Market-place event in St. Philip's Cathedral grounds, Colmore Row. BCC stall to present communities with Clean Air Zone Information.	Community fair
Sunday 19 August 2018	Lord Mayor's Show	Information stand at Cannon Hill Park with 2 volunteers. spoke to 95 individuals, main interest checking vehicle registrations.	Community Engagement
Saturday 25th, Sunday 26th May 2019	Birmingham Pride	Stand held at Birmingham Pride to give people information and guidance on the Clean Air Zone and how to prepare	Community Engagement
Sunday 28th July 2019	Big John's Mela	Stand held at Big John's community mela event to give people information and guidance on the Clean Air Zone	Community Engagement
02/05/2019	CAZ Business Event	Series of events for businesses and organisation to find out latest information about the CAZ and additional support available to them to prepare.	Business Engagement
04/06/2019	CAZ Business Event	-	Business Engagement
18/06/2019	CAZ Business Event	-	Business Engagement

02/07/2019	CAZ Business Event	-	Business Engagement
21/06/2019	Shabana Mahmood MP visit	Nelson Primary School	Community Engagement
05/07/2019	Shabana Mahmood MP visit	Chandos Primary School	Community Engagement
12/07/2019	Shabana Mahmood MP visit	Drop-in St Matthew's CE Primary School	Community Engagement
19/07/2019	Shabana Mahmood MP visit	St Luke's Church	Community Engagement
02/10/2019	Chamber of commerce breakfast briefing	Chamber of Commerce breakfast briefing to member about developments within Brum Breathes. Specifically, the CAZ. Presentations by Cllr Zaffar and Steve Arnold.	Business Engagement
10/10/2019	Fleet operators and HGV's Clean Air Roadshow	Motor Transport is hosting a second Birmingham Clean Air Roadshow on 10 October to provide vital information and support to HGV and van operators ahead of the city's Clean Air Zone rollout by July 2020.	Business Engagement
21/11/2019	Sandwell workshop	Working together with Sandwell to address air quality and understand	Business Engagement

		the impact of the work we are delivering and the changes we are making, with particular reference to air quality hotspots. Agenda includes a presentation on the Sandwell Change and Air Quality Action Plan and also an update from Birmingham on Air Quality Monitoring and Evaluation.	
22/10/2019	West Midlands Transport Conference		Business Engagement
23/10/2019	World Air Quality Conference 2019	World Air Quality conference at London City Hall	Business Engagement
24/10/2019	TOA taxis chairman meeting	Meeting with chairman of TOA taxis to discuss concerns and forward planning of support packages for the taxi community	Business Engagement
24/10/2019	City centre strategy board	Presentation of CAZ plans at the next City Centre strategy board	Business Engagement
26/10/2019	Birmingham Hebrew Congregation presentation	Presentation and briefing at Birmingham Hebrew Congregation to the community about Brum Breathes and the Clean Air Zone plans	Community Engagement
05/11/2019			

	Members marketplace	An opportunity to share information about the CAZ - next steps etc.	Community Engagement
06/11/2019	Economy and Skills committee	Steve to present support for businesses package at committee	Briefing event
11/11/2019	Birmingham Advanced Motorists	CAZ presentation	Community Engagement
20/11/2019	Birchfield Ward meeting		Community Engagement
02/12/2019	Budget consultation - business rate payers		Community Engagement
18/12/2019	Public Budget consultation		Community Engagement

Adverse impact on any people with protected characteristics.

As detailed within each characteristic analysis.

Could the policy/proposal be modified to reduce or eliminate any adverse impact? The mitigations and exemption packages are detailed in the Initial Equality Impact assessment below.

How will the effect(s) of this policy/proposal on equality be monitored?

The City Council propose to undertake some qualitative monitoring and evaluation of travel behaviours to understand the impacts of the mitigation measures and exemptions as help to interpret and explain the findings from the travel monitoring and air quality. The proposed method for doing so is by commissioning a consultant, research group or university team via a competitive tendering process to undertake a Cohort Study. The Cohort Study would recruit through targeted sampling of people eligible for the mitigation measures and exemptions as well as some general population sampling to assess the impact of the CAZ on different groups, and provide a comparison to understand the additional impact that the mitigation and exemption measures have on travel behaviour.

What data is required in the future?

To be determined by the Cohort Study as detailed above.

Are there any adverse impacts on any particular group(s)

Yes

If yes, please explain your reasons for going ahead.

As detailed in the Initial Equality Impact Assessment below.

Initial equality impact assessment of your proposal

Birmingham City Council has a duty under S149 of the Equality Act to pay due regard to the need to eliminate discrimination, harassment and victimisation and to ensure equality of opportunity to those who share a protected characteristic and those who don't. Additionally the City Council has a duty to foster good relations between persons

who share relevant protected characteristics and those who don't. The authority must give proper regard to all the goods in Section 149 of the Equalities Act in the context of the function that it is exercising, and at the same time, pay regard to any countervailing factors which, in the context of the function being exercised, it is proper and reasonable for the authority to consider.

As such, Birmingham City Council has commissioned a distributional impact appraisal, together with a health impact assessment, to identify how the impacts of a proposed Clean Air Zone (CAZ) would be distributed across Birmingham's diverse population and business communities. These impacts include positive health benefits as well as financial impacts. The outputs of this work together with responses received as part of the consultation have been used to develop a package of measures to reduce the impact on individuals and businesses most likely to be adversely impacted by the Clean Air Zone proposals.

Social and Equality Impacts

Income deprivation has been considered at lower super output level (LSOA)¹ relative to England and Wales, and relative to Birmingham. Compared to England and Wales as a whole, there are high levels of income deprivation within the CAZ and Birmingham in general. Owners of non-compliant vehicles resident within the CAZ and in close proximity to the CAZ (such as Nechells, Aston, Perry Barr, Tyburn, Soho and Sparkbrook) are potentially the worst affected financially by the proposed scheme, as due to their geographical location they would be least able to avoid entering and exiting the CAZ for everyday car journeys. There is a higher rate of non-compliant cars associated with areas of income deprivation. It should also be noted that there is a relatively high proportion of households within the CAZ that have no access to a car. The adverse impacts therefore would be distributed amongst those households that are dependent on car use and who have non-compliant vehicles. It is notable that low income households across Birmingham are also among those who would benefit most from the effects of the CAZ in terms of reduced journey times and reduced petrol consumption due to reduced congestion around the city centre as well as from the health benefits of the proposed scheme.

Other social groups potentially adversely affected by the Clean Air Zone proposals would be those dependent on community transport and taxis, as without mitigation these forms of transport could be adversely affected to the extent that their availability decreases (see below). People vulnerable to the impacts would include the disabled, the elderly, women and children. There are some key community facilities within the CAZ whose users could be adversely affected by the combination of CAZ charges and parking charges. Examples include staff and families of children who are patients of the Birmingham Children's Hospital, and congregants of the larger or more unique places of worship within the CAZ. Exemption will be offered to visitors of select medical facilities within the CAZ however it is not possible to provide

mitigation to cover all key community facilities with adversely affecting the rate of achieving compliance. Visits to community facilities are not provided for under the package of mitigation measures and exemptions therefore individuals will be required to plan their travel appropriately.

Business Impacts

The analysis has shown that some transport dependent businesses are more likely to have compliant fleets than others and so the impact of the CAZ would be distributed unequally across businesses. Taxi businesses would be faced with high upfront costs and few choices of response to the CAZ. Other types of business less able to afford the impact of the CAZ appear to be private hire taxi companies, van companies with fleets that are owned by individuals rather than registered to the company, and SME HGV operators. A very high proportion of businesses within the CAZ are SMEs. Since all would be dependent on transport to some extent, any increase in costs from their suppliers as a result of entering the CAZ are likely to be passed on to the customers. Businesses, who in general would have less capacity to cope with increased costs than larger businesses. A number of the mitigation measures and exemptions are targeted at SMEs, Commercial Vehicle Fleets, taxis and private hire taxi companies to ensure that they are catered for and the impact is minimised.

Health Impacts

Health impacts would result from the reduction in pollutants (particularly NO₂ and fine particles (PM10 and PM2.5)) as well as behavioural changes from switching to active modes of transport (walking and cycling) and improved environmental conditions. Analysis has shown that more deprived communities would proportionately receive high health benefits than the population as a whole, meaning that the CAZ would help address a health inequality associated with the more deprived communities typically being exposed to more air pollution. Spatial analysis of where the main quality changes would occur have shown that there would be a 26% improvement in NO₂ pollution concentrations around schools and nurseries which are currently within the areas of greater risk of illegal levels of air pollution.

One of the aims of the CAZ is to nudge behavioural change so that people use more active modes of travel where they can. Although it is not possible to quantify the likely level of change of the CAZ, across a population the increase in physical activity could contribute to significant improvement in overall public health.

Mitigation

The City Council has paid due regard to the need to achieve the goals set out in the Equalities Act (see above), and where

there is risk of an adverse impact to a protective group, t has been identified and considered in the development of t mitigation measures and exemptions. A targeted package mitigation measures and exemptions has been developed ensure that those impacted are catered for where possil and that the City Council's duties under the Equality Act : fulfilled. The mitigation measures and exemptions are set c below.

Mitigation Measures:

- M1a - CAZ workers earning less than 30k pa. Scrappage scheme and/or mobility credit.
- M2a - Hackney carriage support package;
- M2b - Council Hackney Carriage rental scheme;
- M2c - Private hire vehicle upgrade support;
- M4 - HGV & Coach compliance fund;
- M5 - Marketing and engagement campaign.

Exemptions:

- Commercial vehicles registered within the CAZ will receive a 1 year exemption from date of CAZ commencement (max 2 vehicles per company);
- Commercial vehicles with a pre-existing finance agreement beyond 2020 registered within the CAZ v receive 1 year exemption from date of CAZ commencement (max 2 vehicles per company);
- Residents of the CAZ - Individuals with non-complia vehicles registered in the CAZ will be exempted for 2 years from date of CAZ commencement;
- Individuals with a non-complicant vehicle travelling into the CAZ regularly for work and earning less than £30k pa will be exempt upon successful application t 1 year from date of CAZ commencement;
- Visitors to select medical facilities within the CAZ will be exempt for the duration of their stay within 1 year from date of CAZ commencement; and
- Vans and mini buses registered as providing essential community and school transport services and those classified as section 19/22 operators in Birmingham will be exempt for 1 year from date of CAZ commencement.
- Vehicles with disabled passenger tax class.
- Specialist Vehicles (Emergency Service Vehicles, Historic Vehicles, Military Vehicles, Agricultural or Similar Vehicles, Recovery Vehicles, Showman's Vehicles, Special Vehicles

Temporary Non-Chargeables:

- Taxis awaiting retrofit.
- Commercial Vehicles awaiting retrofit.

Consulted People or Groups

As detailed under Consultation Analysis

Informed People or Groups

As detailed under Consultation Analysis

Summary and evidence of findings from your EIA

The impacts of introducing a Clean Air Zone include positive health benefits as well as financial impacts. Financial impacts are two-fold; positive impacts include generation of a revenue stream for the city council which will be used to fund future transport initiatives that will result in further

improvements to air quality. However, financial burden will be placed on those who are eligible to pay the CAZ charge. The impacts of this will be mitigated as much as reasonably possible via the implementation of a set of mitigation measures and exemptions.

It has been identified that the most significantly impacted protected characteristics are Age, Disability, Pregnancy and Maternity and Race., Some impacts are positive rather than adverse, particularly for Pregnancy and Maternity. The mitigation measures and exemptions help to address any adverse impacts. It has also been noted that there could be possible impacts for Gender and Religion or Belief particularly linked to those on lower incomes. It is anticipated that individuals with these characteristics, will benefit from the various exemptions and mitigations .

It is important to stress that the implementation of a Clean Air Zone will have positive health impacts on a number of characteristics, particularly Age and Pregnancy and Maternity. It will also help address health inequality associated with more deprived communities typically being exposed to more air pollution.

Evidence for these impacts has been drawn from extensive consultation, a distributional impact appraisal and a health impact assessment, as detailed above. A distributional impact appraisal and a health impact assessment in a combined document as per attachment.

QUALITY CONTROL SECTION

Submit to the Quality Control Officer for reviewing?

No

Quality Control Officer comments

Agreed to proceed to Accountable Officer 03 12 19

Decision by Quality Control Officer

Proceed for final approval

Submit draft to Accountable Officer?

Yes

Decision by Accountable Officer

Approve

Date approved / rejected by the Accountable Officer

04/12/2019

Reasons for approval or rejection

Assessment meets requirements and necessary areas of impact.

Please print and save a PDF copy for your records

Yes

Julie Bach

Person or Group

Attachments

BCAZ_DIARReport_Rev2.pdf

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