



Birmingham City Council

Councillor Lisa Trickett
Cabinet Member - Clean Streets, Recycling & Environment
The Council House
Victoria Square
Birmingham B1 1BB

Telephone: 0121 303 1077
Facsimile: 0121 303 8903
E-Mail: Lisa.Trickett@birmingham.gov.uk

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Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

Dear Sir/Madam

Draft Clean Air Zone Framework. Consultation on the Implementation of Clean Air Zones in England - Birmingham City Council Response

The City Council welcomes the opportunity to respond to the consultation on the Implementation of Clean Air Zones (CAZ) in England. A CAZ framework is needed to bring consistency to the way CAZs are implemented across England and to help local authorities understand how CAZs can help make their cities better places to live, work and do business. The Council also welcomes the opportunity to comment on the proposed secondary legislation that will require the city to implement a CAZ as well as the underpinning impact assessment produced by the Government.

Too many people are affected by air quality in Birmingham – impacting their health, wellbeing and prosperity. There are an estimated 900 premature deaths a year in Birmingham that are attributable to poor air quality. Clean air should be viewed as one of the key environmental assets of our cities along with parks, nature reserves, rivers and watercourses and as such it plays a key part of a healthy environment. Ensuring the quality of these environmental assets underpins the well-being and prosperity of all our communities

Birmingham City Council has obligations under the Environment Act 1995 to manage air quality in the city. By virtue of the Health and Social Care Act 2012, the City Council has a duty to take such steps as considered appropriate to improve the health of the people in our area and must have regard to guidance from the Department of Health's Public Health Outcomes Framework in doing so. The Public Health Outcomes Framework makes provision for the impact of air pollution on health through the inclusion of an indicator which is the fraction of mortality attributable to particulate air pollution.

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Action to improve air quality will help the City Council to achieve its vision of a city where economic growth is sustainable and inclusive. The Council has committed to action on air quality through its Air Quality Management Action Plan and the Birmingham Connected transport strategy. Whilst progress has been made locally towards improving air quality it is acknowledged that further work is required with action needed at both the local and national levels. Therefore the Council welcomes this consultation and the action towards addressing air quality in the shortest possible time.

Further to concerns around the impact on our citizens and visitors clearly the City Council remains concerned over financial penalties for continuing to fail to comply with air quality legislation. The City Council is aware that the Government could pass fines, estimated at potentially being in the order of £60m on to the council. Such a fine could only be met by ever more cuts in council services, which would be felt most severely by the poor and disadvantaged.

In light of this, the outcome of the recent High Court case between ClientEarth and the Secretary of State for Environment, Food and Rural Affairs is a cause for concern for Birmingham City Council. National air quality plans are the linchpin of the UK's air quality management and the details of the most recent court case (and the previous supreme court ruling in 2015) show that Government has underestimated the air quality challenge facing the nation and the plans produced to achieve compliance with air quality legislation still fall short in terms of their ambition and actions. However, given the details of the High Court's judgement, Birmingham City Council asks that the Government ensures that the level of national support and ambition required to achieve compliance across the country and in Birmingham specifically is provided.

Apart from outlining the ability for local authorities to charge polluting vehicles to enter CAZs, there are no additional actions within the framework that local authorities aren't already made aware of through local air quality management best practice that could be contained in a local air quality action plan. The framework lacks ambition and does not empower cities in the right way. Following the outcome of the High Court brought by ClientEarth, Birmingham City Council continues to develop plans to implement a Clean Air Zone in Birmingham and to address air quality in what ways it can.

Going forward the Government needs to set out a stronger plan for improving air quality in the UK. As such, this framework is a crucial document that must outline the means by which cities will be able to achieve compliance with air quality legislation as quickly as possible - according to the High Court's judgement.

The City Council believes that in addition to requiring authorities to prepare a draft charging scheme, the secondary legislation should also require authorities to implement the class of Clean Air Zone which, based on the outputs of the feasibility studies, would support the achieving compliance with air quality limits in the shortest amount of time. With this in mind it is essential that Government equips local authorities with the necessary financial (including revenue funding) and political support together with the right national action to deliver successful Clean Air Zones.

The current approach on Clean Air Zones puts much on emphasis on action at the local level. However, there are many issues which are directly beyond the influence or control of the City Council. These national level interventions would include but are not limited to:

- Greater action to reduce the usage of diesel vehicles - particularly passenger vehicles – especially where there is a high risk of public exposure to traffic emissions. This should be tackled through mechanisms such as Vehicle Excise Duty and fuel tax changes as well as considering diesel scrappage schemes or further enhanced incentives to invest in ultra-low emission vehicles or the appropriate retro-fitting technologies.
 - The support that is needed from a national level to help transition fleets to sufficiently clean engine technology is significant. The level of support required is greater than the current funds made available through mechanisms such as competitive OLEV grants.
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- Adopting a different approach to providing funding for measures that will address air quality. Support needs to be committed to delivering the level of change that is needed where it is needed rather than being made available through a competitive manner that introduces unnecessary uncertainty into the successful achievement of air quality compliance. A significant amount of resource is required for bid development and this is often time and money that is not recovered in the event of an unsuccessful bid.
- The West Midlands Combined Authority holds the view that the M6 Toll should be better utilised in order for it to function as part of the Strategic Highway Network and support a reduction in the levels of traffic using the M6 through the urban area which would have benefits in terms of traffic – congestion on the M6 often has a direct impact on traffic in Birmingham city centre, particularly on the A38. As set out in the Devolution Deal 2 discussion, the Mayoral WMCA seeks a formal role in the management of the M6 Toll Road, consistent with the devolution agreement agreed in November 2015. Increased management powers will allow the Mayoral WMCA to negotiate further initiatives aimed at increasing the utilisation of the M6 Toll, particularly by HGVs.

The City Council wishes to thank the Government for the opportunity to respond to this consultation and looks forward to further engagement on the development of the Clean Air Zones and the modified National Air Quality Action Plan due for publication in 2017.

Yours sincerely

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Councillor Lisa Trickett
Cabinet Member for Clean Streets, Recycling & Environment

Response to Questions

Draft Clean Air Zone Framework

Question 1: Are the right measures set out in Section 2?

- It is not felt that the measures under section 2 outline anything additional that local authorities wouldn't look to implement as part of current local air quality management.
 - Whilst the list of measures may seem comprehensive, Birmingham City Council does not feel that local authorities are sufficiently resourced to be able to implement these measures at sufficient scale so as to adequately improve air pollution. For example, the extensive campaigns of local engagement and enforcement that are outlined would require significant revenue funding, something that local authorities (particularly Birmingham City Council) have seen cut dramatically since 2010. As the CAZ framework needs to support cities under pressure that need to take additional action to reduce air pollution, the city council concludes that these measures will not secure the UK's objective of achieving compliance.
- The framework is lacking details of additional national support (such as diesel scrappage schemes) that a local authority would be able to secure for the local area (without competitive bidding) by virtue of implementing a CAZ. Local authorities need to be confident that they can access this additional support in order to ensure that they are able to catalyse sufficient action with sufficient resource to bring air pollution down.
- Within the "supporting local growth and ambition" theme of the proposed measures, Birmingham city council does not believe that there is a strong enough link made between improving air quality and how this benefits economic growth. The framework should firmly establish this and further elaborate on how local authorities can ensure that the local economy is strengthened.
 - Additionally, there is insufficient recognition of city ambitions to strengthen public transport and encourage modal shift. This is a core feature of Birmingham City Council's local ambition to improve transport and air quality in the city. Modal Shift underpinned by an intelligent integrated transport system is also recognised by Core Cities and Urban Transport Group as being vital for future sustainable growth in cities across the country.
 - As well as "supporting local growth and ambition" the measures and support that should be made available to CAZ cities should enable cities to improve health and the economy locally in a way that guarantees reduction in local health *and* economic inequalities. Whilst it is true that the most vulnerable and deprived are likely to benefit the most from improved health as a result of the CAZ, businesses from these same groups are more likely to suffer; this should not be permitted and therefore additional support for these communities should be outlined within the framework.
 - Finally, it is disappointing to see that Government is suggesting that local authorities should forgo their own limited income by offering preferential business rates to Clean Air Zone friendly businesses. The income from business rates is reinvested back into the city in the form of public services and infrastructure building, neither of which should suffer in order to help businesses clean up; this should not be an "either or" consideration.

- Within the “Accelerating transition to a low emission economy” theme, Birmingham City Council has some significant concerns around suggestions for how local authorities could prioritise ULEV traffic. Particularly, the city council would have concerns “allowing access to bus lanes, exemptions from other restrictions such as one-way systems, and priority at traffic lights for ULEVs.”
 - Additionally it should be noted that whilst the city council agrees that ULEV uptake is important for improving air quality, it is also essential that overall single passenger car trips are reduced in the city centre (regardless of engine technology). For this reason the city council would have to think carefully about what level of prioritisation for ULEV car drivers would be appropriate in order to avoid incentivising drivers of ULEVs to use their cars rather than public transport or active travel.

Question 2: Are there additional measures that should be highlighted under each theme? Please give evidence of impact if possible.

- The framework would benefit from strong additional measures that are targeted to curb the use of diesel passenger vehicles.
 - Diesel passenger vehicles are responsible for 46% of NO₂ emissions at the worst exceedance location in Birmingham. This is more than the combined total from motorcycles, petrol cars, petrol vans, HGVs and buses.
- The framework would benefit from additional focus and supporting measures to encourage demand management and modal shift.
 - The roll-out of the Fleet Operator Recognition Scheme across CAZ cities would help to improve road safety and encourage drivers to employ more fuel efficient driving methods (which will improve emissions).
- The framework would benefit from clear guidance on how to improve the visibility of air quality impacts in council decision making. This would help local authorities embed consideration of air quality into council culture.

Question 3: In addition to the draft Framework, are there other positive measures that (a) local or (b) central government could introduce to encourage and support clean air in our cities?

- The city council asks that Government acknowledges the need to take greater action to reduce the usage of diesel vehicles - particularly passenger vehicles – especially where there is a high risk of public exposure to traffic emissions.
- Government should take immediate action against the continued use and purchase of diesel vehicles. This should be tackled head on through mechanisms such as VED and fuel tax changes as well as considering diesel scrappage schemes. In addition the Government should investigate if alternatives such as Diesel GTL can provide improvements in emissions.
- The support that is needed from a national level to help transition fleets to sufficiently clean engine technology is significant. The support needed is greater than the current funds made available through mechanisms such as competitive OLEV grants accounts for. There should be an enhancement to the incentives provided by Government to encourage ULEV uptake; the resource committed to this should reflect the level of overall fleet change that is required to meet compliance with air quality limits.

- Support needs to be committed to delivering the level of change that is needed where it is needed rather than being delivered through a competitive manner that introduces unnecessary uncertainty into the successful achievement of air quality compliance. A continued trend of local devolution will empower local decision makers to invest in cities more sustainably.
- In the West Midlands, that in order to ascertain environmental, air quality and economic benefits, the M6 Toll should be better utilised in order for it to function as part of the Strategic Highway Network. As set out in the Devolution Deal 2 discussion, the Mayoral WMCA seeks a formal role in the management of the M6 Toll Road, consistent with the devolution agreement agreed in November 2015. Increased management powers will allow the Mayoral WMCA to negotiate further initiatives aimed at increasing the utilisation of the M6 Toll, particularly by HGVs.

Other national schemes could include:

- awareness campaigns
- financial support for local SMEs
- local power grid resilience building (to reduce requirements for additional diesel generators and to enable the roll-out of electric vehicle charging infrastructure)
- rail (particularly stations) and motorway emissions improvements
 - including continued electrification of our railways
- boiler scrappage scheme
- additional public transport subsidy for children
- Birmingham City Council agrees that the CAZ should extend beyond road transport; generator, boilers, and construction and plant equipment all contribute significantly to air pollution. Whilst, councils can embed requirements related to national standards into local planning, support would also need to be provided in terms of national regulation and resource for local enforcement.
- Birmingham City Council believes that national industrial strategy must be strengthened to transform the UK's vehicle manufacturing industry from outputting diesel vehicles to ULEVs rapidly to support local requirements in cities implementing CAZs.
- Government should introduce a national taxi emissions policy. This would remove the current problem with taxis choosing the local authority with the least stringent emissions policy to register.
- Locally, the use of other forms of road user charging scheme such as workplace parking levy could be used in combination with a CAZ to have a greater impact on vehicle usage in our cities.
- National vehicle retrofit schemes could drastically increase the ability of fleet owners to upgrade their fleets. Schemes for buses, emergency vehicles and SMEs should be considered.
- There should be greater national leadership on the deployment of ULEVs at scale in CAZ cities.

- Currently the Public Health Outcomes Framework does not provide sufficient guidance on how the impacts of air pollution should be measures. The PHOF focusses on the mortality impact of particulate matter. Local authorities require a more holistic set of indicators on the impact of all species of air pollution so as to understand the impacts on quality of life as well as life expectancy.

Question 4: Are the operational standards and requirements set out in Section 3 and Annex A of the Framework acceptable?

- Feasibility studies to implement Clean Air Zones in the five cities identified in the 2015 UK Air Quality Plans are currently underway. Birmingham City Council believes that the results of these detailed local studies should be used to help to determine what vehicle standards would be appropriate for Clean Air Zones.
- The proposed class banding system for CAZs is unnecessarily restrictive. The vehicles that are to be included within a CAZ should be decided at a local level according to locally established detailed evidence.
 - Currently, the class system targets public transport before all other vehicles. This is inconsistent with local transport strategies that seek to increase the use of public transport over private vehicles. Also, the inclusion of public transport in a CAZ may result in an increase in travel costs for the most vulnerable and deprived in society. These are the people who may struggle the most to bear such cost increases and so this would be a policy decision that would increase economic inequality.
 - Additionally, it is noted that the explanation of a class D CAZ is presented in a non-equitable way when compared with the other classes. The description of a class D CAZ is an endnote at the very end of the draft framework. This clearly needs to be amended given that private cars represent the lion's share of emissions in many of the worst locations in the country.
- Any retro-fitting or emissions accreditation scheme must be administered and defined at a national level. It is now a matter of urgency that Government clarify the details of recognised accreditation schemes and technology so that large fleet operators such as bus operators can begin to plan for the future.
- It is not clear how CAZ conditions will apply to future Euro 6 diesel standards (6a, 6b and 6c). This is critical to understand, given that real world performance of Euro 6 diesel vehicles has been much poorer than the standard initially intended.
- We believe that there could be scope for a sliding scale of charge for entering a CAZ dependent on how old a vehicle is; so a charge for a Euro V would be less than a charge for a Euro III.
- We believe that the framework should enable local authorities to ban vehicles below a certain Euro standard. This would be in line with the actions of many European cities. Enforcement could be through fixed penalty charges as opposed to road user charging.
- We believe that a non-24/7 CAZ could still be implemented as a way of achieving the required reduction in emissions. For example, in the case of a class D CAZ, the CAZ could operate 24/7 for all vehicles except cars. The CAZ could operate at peak times for cars. This would help to manage car traffic coming in and out of the city. Clean vehicles could still travel in peak times whilst dirtier vehicles would travel at different times. This

would reduce congestion and improve the flow of traffic thereby having a considerable impact on air pollution. A policy such as this would be more inclusive as it would provide greater choice for those who cannot afford to upgrade their vehicle.

Question 5: Do you agree that the requirements in Clean Air Zones for taxis and for private hire vehicles should be equivalent?

- The city council agree with the principle that taxis and PHVs should be treated the same under CAZ conditions.
 - However, the Government should note that there will be significant administrative challenges to identify PHVs for the purposes of CAZ enforcement that will need to be resolved at a national level.
 - The Government need to ensure that the right support is provided to enable the transition to ULEVs or undertaking retrofitting for taxis and PHVs. This trade is a key local employment sector with the majority of drivers self-employed. The impact assessments will need to ensure that the Clean Air Zone proposals will not have a disproportionate impact on the people who are employed in this sector.

Question 6: Do you agree the standards should be updated periodically?

- CAZs will be a vital tool in cleaning up national and local fleets, therefore the standards should be upgraded periodically.
- This will not only help to clean up city air, it will also send a strong signal to automotive manufacturers that there is/will be significant demand for new ULEVs.

Question 7: If yes, do you agree that the minimum vehicle standards set out in the Framework should remain in place until at least 2025?

- The city council believes that the current minimum vehicle standards set out in the framework should be upgraded no later than 2025.
- The framework should outline as much detail as possible for how the standards will be updated over time in order to improve public health outcomes and meet the 2040/2050 Government national ULEV targets. This should include interim milestones.
- Details should be given on how the CAZs could be altered nationally or locally in the case that implementation of CAZs fails to secure compliance with air quality legislation before punitive action is taken.
- The city council believes that the Euro 4 standard for smaller petrol vehicles should be upgraded before 2025. Allowing 20 year old vehicles into CAZs without appropriate internalisation of external costs seems inconsistent with national objectives to improve air quality, carbon emissions and build the ULEV industry in the UK.

Question 8: Do you agree with the approach to Blue Badge holders?

- Yes. The Council agrees that blue badge holders should not be exempt from the charge but that vehicles specifically adapted for use by disabled persons should be exempt from charges.

- This is a difficult decision and one best considered at a local level.

Question 9: Is the approach set out suitable to ensure charges are set at an appropriate level?

- Yes.
- A banding framework set by Government is welcomed, providing that banding demonstrably ensures full recovery of costs, whilst the actual charge set is determined by the local authority based on local circumstances. However, the Council would like the Government to confirm that it will meet any shortfall in terms of the costs of operating the scheme in the event that it does not generate sufficient levels of revenue. The Council's view is that the costs of operating the scheme should also include a consideration of providing ongoing communication and engagement to continue to educate road users, rather than relying solely on punitive measures.

Question 10: Do you have any comments on the secondary legislation as drafted?

- The recent High Court ruling brings into question the value in the impact assessment that sits behind the proposed secondary legislation; the impact assessment's options were informed by the recommendations made in the 2015 national air quality plans, which were founded on underestimates. Therefore it is fair to assume that the assessment of impacts that would be felt by Birmingham is also an underestimate.
 - There is a concern that implementing legislation based on these flawed impact assessments could leave Birmingham City Council and Government open to valid requests for a public enquiry into the implementation of CAZs nationally and/or in Birmingham.
- Local authorities should retain existing powers to implement other road user charging schemes and work place parking levy alongside the Clean Air Zone. Regulation 12 of the secondary legislation should clarify which secretary of state would be required to approve additional charging schemes where a Clean Air Zone already exists.
- Clarity is needed over which air quality plan is referenced in the legislation. It would be concerning if it is intended that the legislation would still refer to the 2015 air quality plan as the recommendations put forward in the 2015 plan – in terms of suggested minimum CAZ class requirements for cities – were based on systematic underestimates.
- The secondary legislation should also provide greater details on the timescales associated with the time that the Secretary of State would have to respond to draft plans.

Question 11: Do you agree with the approach undertaken in the impact assessment? If no, please provide supporting evidence.

- The recent High Court ruling brings into question the value in the impact assessment that sits behind the proposed secondary legislation; the impact assessment's options were informed by the recommendations made in the 2015 national air quality plans, which were founded on underestimates. Therefore it is fair to assume that the assessment of impacts that would be felt by Birmingham is also an underestimate.
- In addition, there are other implications from the High Court judgement that could call into question the validity of the overall approach including what the courts determined was proportionate and quick enough in terms of improving air quality. The impact assessment discusses "trade-offs" between improving public health and the cost of

moving to a cleaner fleet. The High Court judgment could be interpreted to mean that such trade-offs should not prevent Government from ensuring that the country is compliant with air quality legislation as quickly as possible.

- The above being the case, Birmingham City Council understands that irrespective of the general approach to assessing impacts, the scenarios within the impact assessment may not have been appropriate as they do not include:
 - Consideration of more stringent CAZ classes that may be needed in light of the previous underestimates; and
 - Consideration of additional national support that could have been included in UK air quality plans to mitigate any economic disbenefits of CAZs (ie. business impacts) and to help accelerate fleet change.

Question 12: Do you agree with the conclusions of the impact assessment? If no, please provide supporting evidence.

See answer to question 11.

Question 13: Are you aware of any additional data that could inform the impact assessment? If yes, please give details.

- Birmingham City Council is currently undertaking a feasibility study into the implementation of a CAZ that will be mandated by Government. This will include a thorough assessment of health, economic and business, and equalities impacts.