

**BIRMINGHAM CITY COUNCIL
PUBLIC REPORT**

Report to: Cabinet
Report of: Corporate Director of Economy
Date of Decision: 10th September 2018
SUBJECT: BIRMINGHAM CLEAN AIR ZONE SUBMISSION OF
PREFERRED OPTION BUSINESS CASE TO
GOVERNMENT
005425/2018
Key Decision: Yes
If not in the Forward Plan: Chief Executive approved
(please "X" box) O&S Chair approved
Relevant Cabinet Member(s) Councillor Waseem Zaffar – Transport and Environment
or Relevant Executive
Member:
Relevant O&S Chair: Councillor Liz Clements – Sustainability and Transport
Wards affected: ALL

1. Purpose of report:

- 1.1 To provide an overview of the consultation responses received on the Clean Air Zone (CAZ) proposal.
- 1.2 To set out how the consultation responses received have been considered and how these have been taken into account within the Preferred Clean Air Zone Option including a proposed package of mitigation measures;
- 1.3 To seek approval of the Preferred Clean Air Zone Option as detailed in Section 5.
- 1.4 To seek approval to submit the Preferred Clean Air Zone Option Business Case to Government, including a funding request for both the required infrastructure and the support measures to mitigate the social and economic impact. A submission to Government is required to satisfy the requirements of the Ministerial Direction issued in December 2017, so far as the Council is able.
- 1.5 To set out the next steps for the implementation of the proposed scheme.

2 Decision(s) recommended:

That Cabinet:

- 2.1 Notes the Consultation Report at Appendix 2 which provides an analysis of the public consultation response.
- 2.2 Approves the Preferred Clean Air Zone Option Business Case and proposed package of mitigation measures to reduce the social and economic impact of the scheme as detailed in Appendix 1 of this report.
- 2.3 Notes that the Council has made a demonstrable and meaningful response to the public consultation when defining these mitigation measures.
- 2.4 Approves the submission of the Preferred Clean Air Zone Option Business Case to Government ahead of the 15 September 2018 deadline to satisfy the Ministerial Direction issued in December 2017.
- 2.5 Notes that a Procurement Strategy for the Clean Air Zone will be the subject of a later report.
- 2.6 Notes that a further report will be presented to Cabinet to seek authority to implement the Clean Air Zone in accordance with the Council's Gateway and Related Financial Approval framework.

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3 Consultation

3.1 Internal

- 3.1.1 This report has been discussed in detail with the Leader, Deputy Leader and the Executive Management Team. Opposition leaders were engaged during the consultation period. A presentation was given to the Sustainability and Transport Overview & Scrutiny Committee on 2 August 2018 regarding the proposals, with a further briefing in respect of this report provided to the Chair.
- 3.1.2 In respect of the Clean Air Zone briefings have been delivered to all ward councillors, key political party groups and the relevant Council directors. Officers from City Finance, Procurement and Legal & Democratic Services have been involved in the preparation of this report.

3.2 External

- 3.2.1 The Council undertook a statutory public consultation on the Clean Air Zone proposals from 4 July to the 17 August 2018, with key stakeholder groups engaged. Further details are provided in Section 5 of this report and the Consultation Report (Appendix 2).

4 Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 The implementation of the Clean Air Zone programme will achieve outcomes and allow benefits to be realised, which are consistent with the following outcomes as set out in the Council Plan 2018-2020:
- Outcome 1 – Birmingham is an entrepreneurial city in which to learn, work and invest in;
 - Outcome 2 – Birmingham is an aspirational city to grow up in;
 - Outcome 3 - Birmingham is a fulfilling city to age well in;
 - Outcome 4 – Birmingham is a great city to live in.
- 4.1.2 Improving air quality as soon as possible, consistent with other statutory responsibilities is a key ambition of the Birmingham Health and Wellbeing Strategy and supports the delivery of policies included in the 'Birmingham Connected Transport White Paper', which in turn, supports delivery of the adopted Birmingham Development Plan and Movement for Growth
- 4.1.3 The Health and Social Care Act 2012 requires Local Authorities in England to have a Health and Wellbeing Board (HWBB). A key responsibility of the HWBB is to develop a Health and Wellbeing Strategy (HWBS). Improving air quality is a key ambition of the Birmingham Health and Wellbeing Strategy.

4.2 Financial Implications

- 4.2.1 Whilst the approval of this report does not have any direct financial implications, the financial information set out below is included for reference as there are potential financial implications for future years in relation to ongoing operational costs. As stated in Section 2 further approvals to implement the scheme will be made in a subsequent

report(s) in accordance with the Council's Gateway and Related Financial Approval Framework.

- 4.2.2 The CAZ programme will be funded via a capital funding grant which is expected to be awarded to the Council by Government. This grant will be a Section 31 unconditional grant and will be for the total cost of the project. It is not anticipated that there will be any capital funding implications for the Council for the implementation of this programme.
- 4.2.3 The estimated capital and revenue expenditure (summarised below) have been calculated using the Government's 'Green Book' as guidance/reference material. All currently estimated capital and revenue expenditure includes an optimism bias, as per the 'Green Book' guidance. In addition to this, a suitable contingency has been incorporated into all estimates in order to mitigate the risk to the Council, reducing the likelihood of exposure due to an underestimation and subsequent cost overrun. The cost estimate will be refined as the programme proceeds and a finalised estimate of capital cost requirements and estimated revenue income and expenditure will be provided in subsequent reports.
- 4.2.4 The capital funding from Government has been divided into two funding streams (1) the Implementation Fund and (2) the Clean Air Fund.
- 4.2.5 The Implementation Fund will provide funding for the Council to implement the physical scheme, i.e. the CAZ signing and Automatic Number Plate Recognition (ANPR) camera networks and the 'back office' charging system. The Clean Air Fund will provide the funds required by the Council to implement a package of mitigation measures; the measures that are proposed to be implemented by the Council to mitigate the impact to the most significantly affected socio-economic groups, as per the consultation response (Appendix 2). The table below provides an overview of the capital which is currently estimated to be required from each funding stream.

Table 1.0 – Estimate of capital funding required from the Implementation Fund

Funding Profile	2018/2019	2019/2020	Later years	Total
Implementation Fund	£0	£20.767m	£3.625m	£24.392m
Clean Air Fund	£16.166m	£14.857m	£5.182m	£36.205m

- 4.2.6 Productive, ongoing dialogue with the Government's Joint Air Quality Unit (JAQU) has continued to take place as the proposals have developed. In the event that Government reject the Council's proposal and in the unlikely event that the scheme does not proceed, the developmental funding which has been granted thus far (c. £1.124m) will not be repayable to Government. Approval to apply for and accept developmental funding was given in the Cabinet report "Updated Transportation & Highways Funding Strategy 2017/18 to 2022/23 Programme Definition Document" which was approved on the 16th of May 2017.
- 4.2.7 A number of highways assets will be introduced as a result of the implementation of this proposed scheme. As such there will be revenue expenditure required for the maintenance of these assets, together with ongoing operational costs of the CAZ system. Further detail will be provided in subsequent reports to Cabinet. Table 2.0 shows the currently estimated annual revenue expenditure for this scheme, as detailed in Appendix 1.

Table 2.0 Estimate of the revenue expenditure of the scheme

Ops and Maint. Cost Profile	2018/2019	2019/2020	Later years	Total
Totals	£0	£0	£7.311m	£7.311m

4.2.8 A revenue income will be generated by the implementation of this scheme. This will be broken into two revenue streams; (1) CAZ generated (2) non-CAZ generated. The CAZ generated income will come from the charges which the drivers of non-compliant vehicles will pay and the Penalty Charge Notices (PCN's) which will be issued for failure to pay. The non-CAZ generated income will come from the conversion of Council managed on-street parking spaces which are currently free to use, into parking spaces for which a charge will apply; it is estimated that there are around 6,000 spaces which will be converted. The table below provides an overview of the income which is currently estimated for each revenue stream. It should be noted that the below values are subject to refinement based on final charging proposals. They should therefore be taken as indicative only until the time at which Cabinet approval is sought to implement the scheme.

Table 3.0 Estimate of the revenue income of the scheme (all costs are £m)

Calendar Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total
CAZ Revenue (£m)	43.67	41.30	35.72	29.93	23.91	17.62	14.71	11.67	8.49	5.17	232.2
Non-CAZ revenue (£m)	2.84	2.84	2.84	2.84	2.84	2.84	2.84	2.84	2.84	2.84	28.4
Totals	46.51	44.14	38.56	32.77	26.75	20.46	17.55	14.51	11.3	8.01	260.59

4.2.9 The CAZ generated income will first be used to cover the costs of running the CAZ. The Transport Act 2000 requires any excess revenue that may arise to be re-invested to facilitate the achievement of local transport policies: the money would be invested in transport infrastructure measures to benefit the public and improve air quality. Similarly the revenue which is non-CAZ generated will be used for the operation and maintenance of the assets from which the revenue is generated and any surplus will again be used for future transport and air quality improvement schemes.

4.2.10 Potential Financial Penalties:

4.2.10.1 The European Commission has referred the United Kingdom to the European Court of Justice (ECJ) for failing to meet its legal obligation to secure compliance with the agreed air quality limit values, and for failing to take the appropriate measures to keep exceedance periods as short as possible. The ECJ found that the UK has not presented credible, effective and timely measures to reduce air pollution, as required under EU law. As such, if the UK continues to fail to comply post January 2020, the ECJ could impose periodic, or lump sum penalties on the UK. The value of such penalties is not currently known, however it is expected that such penalties will be substantial. The penalties would, in the first instance, be imposed upon the UK Government; however, Part 2 of the Localism Act 2011 empowers the Government to require the offending Local Authorities to contribute to the penalty.

4.2.10.2 Any relevant effects of the decision to trigger article 50 of the Lisbon Treaty resulting in the UK renouncing its membership of the EU are as yet unclear. However the Council has been advised that decision making should continue unless and until there is a clear indication at national level to the contrary. It is considered more likely than not that the above legal responsibilities will continue in substantially similar form beyond March 2019 and the National Air Quality Plan does not suggest otherwise

4.3 **Legal Implications**

4.3.1 The full extent of the legal implications are detailed in the Cabinet Report (*Tackling Air Quality in Birmingham – Clean Air Zone*) approved on the 26th June 2018; The relevant regulation, legislation, directives are listed below:

- The Ambient Air Quality and Cleaner Air for Europe Directive 2008
- The Environment Act 1995
- Air Quality Standard Regulation 2010
- The Localism Act 2011
- Birmingham City Council Air Quality Direction 2017
- Transport Act 2000
- Town and Country Planning Act 1990
- Highways Act 1980
- Road Traffic Regulation Act 1984
- Traffic Management Act 2004
- Countryside and Rights of Way Act 2000
- Ministerial Direction (Issued 19th December 2017)

4.4 **Public Sector Equality Duty**

4.4.1 The Council has a statutory equality duty to ensure that no dis-benefits are introduced to any of the socio-economic groups in Birmingham. The CAZ programme is likely to have an impact on a variety of aspects, including the health and well-being and financial capacity of those working in, living in and visiting the city. Air quality and traffic modelling shows that the overall impact to the traffic network will be positive in terms of air quality. As such, a Distributional Analysis has been undertaken to screen for impacts on individuals and businesses. As detailed later this, together with the consultation responses, is being used to ensure the anticipated impacts of the scheme are understood and the Council can develop and implement the appropriate mitigation measures.

4.4.2 A separate Equality Impact Analysis has also been undertaken for this report, ref “EQUA79 Birmingham Clean Air Zone” and is provided at Appendix 4

5. **Relevant background/chronology of key events:**

5.1.1 The Preferred Clean Air Zone Option Business Case specifies that Birmingham should implement a Class D Clean Air Zone plus additional measures:

- A charging CAZ, operating within the A4540 Middleway ring road (excluding the ring road itself), such that non-compliant vehicles (i.e. buses, coaches, taxis, heavy goods vehicles, light goods vehicles and private cars) would be charged to enter the CAZ.
- Additional on-street parking controls.
- Network changes including on Suffolk Street Queensway / Paradise Circus and on Dartmouth Middleway.

5.1.2 These proposals will be supported by a package of measures to mitigate the impact on individuals and businesses who are considered least likely to be able to adapt easily to the changes required by the Clean Air Zone. This has been developed in response to the feedback received during the consultation.

5.2 **Overview of consultation process**

5.2.1 The consultation was launched on Wednesday 4th July 2018 and ran for 6 weeks until

Friday 17th August 2018.

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

- Gather 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;
- Identify what support/mitigation is needed for particular groups of people/organisations; and
- Seek suggestions for any further measures which may not have been considered.

5.3 **Publicising the consultation**

5.3.1 A press release and media briefing were held to coincide with the publication of Cabinet decision papers on 19 June.

5.3.2 The Council, along with its partners, used a number of different channels of communication to spread the word about the CAZ consultation. This included:

- Existing stakeholder and community networks;
- Existing email and other electronic communications (corporate BCC, departmental and schools);
- Public drop-in sessions;
- Roadside signage on approach to the CAZ area
- Radio and press advertising
- Public transport user messages, e.g. on bus stops
- Printed flyers delivered to all residential and commercial properties in and near to the proposed CAZ
- Traditional media
- Social media activity including Facebook and Twitter; and
- Stakeholder events.

5.3.3 Whilst engaging with businesses and organisations the Council also encouraged them to raise awareness of the Clean Air Zone with their clients, suppliers and other business contacts

5.4 **Response channels**

5.4.1 All publicity directed citizens to www.birmingham.gov.uk/caz, from where they were sent to the Be Heard website where separate surveys for individual citizens and for businesses/organisations were available. Between 1 July and 17 August there were 46,241 unique visitors to the Birmingham City Council Clean Air Zone page.

5.4.1.1 The following documents were available to view or download on the Be Heard site:

- Consultation Summary Document
- Air Quality Modelling Report
- Transport Modelling Forecasting Report
- Additional Measures - CAZ Feasibility Report

- Frequently Asked Questions
- Acronyms and Abbreviations
- Clean Air Zone Briefing Presentation
- Printable posters (colour and black & white)

5.4.2 Respondents were asked to submit their feedback about the proposals through the online questionnaire. It included closed questions and open questions providing the opportunity for respondents to give additional comments. Where contact was made through a channel other than Be Heard, people were encouraged to also complete the questionnaire online or on paper, if they were able to. However, some businesses felt that the questionnaire was not suitable for their organisation and submitted a response via email to the Clean Air mailbox.

5.4.3 For those people who did not wish to or were not able to respond to the questionnaire online, paper copies and consultation summary documents were available in all 37 libraries across Birmingham. In addition to this, technical documents were available at the Library of Birmingham and available upon request for those who could not access the document online. Paper copies of the questionnaire were also sent in the post to individuals upon request.

5.4.4 A face to face drop-in session for Councillors was held alongside a Full Council meeting on the 10 July with a presentation and materials pack available for Ward Forums on request.

5.5 **Email correspondence**

5.5.1 All email correspondence sent via cleanair@birmingham.gov.uk was logged, acknowledged and responded to where relevant and appropriate. Emails from 275 citizens relating to the Clean Air Zone were logged.

5.5.2 **Dedicated phone line**

5.5.3 A dedicated phone line was available throughout the consultation during office hours, with a voicemail available outside of these times. 80 calls were received, logged in the correspondence log and dealt with accordingly.

5.6 **Public drop-in sessions**

5.6.1 Twelve face to face public drop-in sessions were held. The events were held in multiple locations across Birmingham, as shown below. The events attracted different levels of interest, with an average of 33 attendees per event.

5.6.2 In addition, two lunchtime drop-in events for Birmingham City Council staff were held, at Woodcock Street and Lancaster Circus.

5.7 **Stakeholder Communication**

5.7.1 Four stakeholder seminars were held within the city centre for organisations and businesses wishing to find out more information about the proposals and to feedback their concerns, comments and ideas. An invitation email was sent using the existing BCC corporate and departmental databases to approximately 26,000 businesses and organisations inviting them to register interest in the stakeholder seminars. The sessions each ran for three and a half hours and included a presentation, Q&A, and an interactive group session.

5.8 **Taxi /Private Hire events**

5.8.1 Five events specifically for taxis and private hire drivers were held by the licencing team for taxi drivers to come and talk to Council officers about its Clean Air Zone proposals and to find out what specific concerns were for taxi drivers. An invitation was sent by the licencing team to the taxi reps, inviting their members to any of the five events.

5.9 **Key strategic stakeholder meetings**

5.9.1 In addition to the public drop-in sessions and stakeholder seminars various stakeholders were engaged through private briefings and third-party events including:

- Retail Business Improvement District
- Greater Birmingham Chambers of Commerce
- Freight and Transport Association (FTA)
- Full Council Meeting
- Solihull Council
- West Midlands Bus Operators Panel
- West Midlands Bus Alliance Board
- Central Mosque
- Northfield Ward Meeting
- Sandwell Council
- Hammersons
- Taxi Trade Liaison Meeting
- Motorcycle Action Group
- Showmen's Guild
- RMT Union
- Citizen UK

5.10 **Key themes Emerging from Analysis of Comments Received (from both individuals and organisations)**

5.10.1 In total some 10,392 individuals responded to the consultation, along with 386 organisations and businesses. In addition, 394 responses to a petition organised by the Motorcycle Action Group were received (included at section 5.3 in the consultation analysis report which is attached at Appendix 2).

5.10.2 This is believed to be the highest level of response that has been received to any consultation the Council has ever undertaken. The consultation response was not only large in terms of number of responses but also raised a substantial number of issues. The analysis undertaken has identified the key themes which were raised and these are summarised below.

5.10.3 At the time of writing this report, all of the responses from the consultation have been analysed and considered sufficiently in order to enable a proper view to be taken in the preparation of the Preferred Option Business Case. More detailed responses to specific issues will take slightly longer to consider. It is proposed that engagement continues

with key stakeholders on the proposals as the Council progresses towards implementation.

5.10.4 Opinions were divided on the overall impact of the proposed CAZ, with support from individuals and businesses for the health benefits, but concerns about the impact on themselves and their families, Birmingham as a city, and particularly on businesses in Birmingham.

Table 4.0 Respondents' views on the impact of the proposed CAZ

Individuals	Organisations
25% of individuals said it would be positive for themselves and their family, with 53% saying it would be negative whilst	13% stated that the CAZ would have a positive impact on their organisation, with 74% saying it would have a negative impact.
13% of individuals said it would be positive for businesses in Birmingham and 73% said negative.	11% of organisations said it would be positive for businesses in Birmingham and 77% said negative.
32% felt it would be positive for Birmingham as a city and 53% felt the impact would be negative.	29% felt it would be positive for Birmingham as a city and 50% felt the impact would be negative

5.10.5 Analysis of the comments received shows that the main areas of support were for improvements in air quality and health, better public transport and an improved feel to the city centre.

5.10.6 The main areas of concern voiced were around residents and commuters experiencing financial difficulties, creating difficulties for businesses, the CAZ leading to financial inequality, increased pollution elsewhere and therefore no positive impact on air pollution or health and increased public transport costs.

5.10.7 There were some calls for the Council to consider non-charging alternatives to a Clean Air Zone. The Council's detailed assessment of the air quality measures that are required has rejected out any options that did not include a charging element as this would require major modal shift and significant investment in transport infrastructure upgrades. Moreover, it would not be possible to implement these as to achieve compliance with NO2 limits in the shortest possible time, consistent with other statutory and other responsibilities.

5.10.8 There was some support for the CAZ location outlined the proposals, with others asking for it to cover a larger area. Some suggested the zone should be smaller, only covering the inner ring road or excluding certain areas, such as the Jewellery Quarter, industrial areas and the A38.

5.10.9 There were also concerns that pollution would merely be displaced elsewhere in the city, and perhaps even to areas which were more residential in nature, so that the health benefits for those living and working in the CAZ would be balanced out – and even outweighed – by those living in areas which may see increased traffic and congestion. However, it is considered that air quality improvements will still be delivered across a much wider area as the compliant vehicles travelling into the charging zone will pass through the communities around the charging boundary and across the wider area.

5.10.10 There were a number of suggestions for additional actions to improve air quality including:

- Further improve public transport (including developing the rail networks and extending the tram system)
- Improve the cycle network
- Improve the road system to aid traffic flow
- Introduce more green spaces
- Create a Park & Ride system
- Introduce travel passes
- Address roadworks issues
- Promote walking and increase pedestrianisation
- More charging points for electric cars

5.11 **Impacts on Individuals, Organisations and Businesses**

5.11.1 Many respondents voiced concerns about pace and scale of change required; the impact on individuals, families and business through financial hardship, job losses and increased congestion; and pollution in areas surrounding the CAZ.

5.11.2 Respondents asked for extra support for a number of groups. The main suggestions were:

- Visitors to and staff at Birmingham Children's Hospital
- People with disabilities and their carers
- Those living within the CAZ being made exempt or receiving discounts
- Financial support for those on low incomes
- Small businesses within the CAZ
- Commuters and those working within the CAZ
- Taxi and private hire vehicle drivers

5.11.3 The types of support suggested for these groups included:

- General financial support.
- Introduction of a vehicle trade-in scheme.
- Phased introduction/more time before charging begins.
- Subsidised bus travel and/or bus passes.
- Discount or exemption from paying the charge.

5.11.4 Some people felt that no support should be available for any groups.

5.12 **Impact of the consultation responses on the shaping of the Preferred Clean Air Zone Option Business Case**

5.12.1 The background to the problem of air quality in Birmingham and the development of the Clean Air Zone proposals was detailed in the report to Cabinet dated 26th June 2018. The work undertaken on the feasibility study set out that implementing a Class D CAZ together with additional measures, including parking measures and network changes, was the preferred option in order to reasonably meet the legal requirement to deliver

compliance in the shortest possible time, consistent with other duties and responsibilities.

- 5.12.2 Annual mean NO₂ concentrations remain consistently above the legal thresholds following the implementation of various restriction and complementary measures in Birmingham. There is a need to bring about a significant and rapid shift in local behaviours in the city.
- 5.12.3 Further modelling undertaken since June indicates that with a CAZ D within the Ring Road, plus additional measures, NO_x compliance will be achieved at all but one location by 2021. Suffolk Street Queensway is forecast to achieve compliance by 2022. The Council is continuing to collaborate with JAQU to consider options which could bring forward compliance from 2022 at this location, or at the very least reduce exposure pending compliance. This work is ongoing and will be reported back to Cabinet in due course.
- 5.12.4 The consultation presented a series of questions to the public on the proposals for a Clean Air Zone in Birmingham. It is not considered that there are realistic options to change the location/area of the zone or the class of CAZ proposed without reducing the ability of the Council to achieve compliance in the shortest possible time. The key changes now being made to the preferred option are the mitigation measures and exemptions package to support those identified as being disproportionately negatively impacted by the proposals.
- 5.12.5 To support the Preferred Clean Air Zone Option Business Case, the Council has undertaken a Distributional Analysis to identify how the impacts of a proposed CAZ would be distributed across Birmingham's diverse population and business communities. These impacts will include health benefits as well as financial impacts. The responses from the consultation have been used to supplement the Distributional Analysis and finalise the Council's proposals.
- 5.12.6 It is proposed that mitigations will be in the form of exemptions and sunset periods, or in the form of funded support, to be secured from the Government's Clean Air Fund (CAF) which are being included as part of the Business Case.

5.13 **Integration of exemptions and mitigation measures**

- 5.13.1 The exemption and mitigation measures are designed to minimise the negative impacts on individuals and businesses as identified by the Distributional Analysis and through the consultation. As such, there is expected to be significant overlap between the groups targeted by the exemptions and those eligible for financial support. Details of how exemptions are integrated into the implementation plan of other mitigation measures are covered in detail in the Clean Air Fund proposal. However, each follows a general approach, which applies in all cases:
- Receiving support through one of the mitigation measures proposed would not affect an individual's/organisation's eligibility for an exemption and vice versa.
 - Funded support mitigation measures will be extended through to early 2021. This allows affected individuals/organisations to continue to use their vehicle during the exemption period and still access the funded mitigation measure is available at the end of the exemption period.
 - Those that are eligible for funded mitigation measures but are not eligible for exemptions can receive the mitigation packages/funding to coincide with the implementation date of the CAZ.

5.14 Exemptions and Discounts

5.14.1 The National Clean Air Zone Framework, sets out a number of standard exemptions from Clean Air Zone emission requirements. These include vehicles with a historic tax class (built on or before 31 December 1977) and military vehicles which are exempt from charges by virtue of Section 349 of Armed Forces Act 2006. Vehicles within the disabled passenger vehicle tax class will also be exempt from paying a charge.

5.14.2 The exemptions and mitigation packages set out in the tables below have been determined locally with input from the consultation analysis. At this stage they are proposed to be available for one year from implementation. However, this is subject to further review before the Full Business Case so as to ensure that the impact of the exemptions has been accurately estimated.

Exemption	Target Group	Target fleet	Geographical Scope	Description
HGVs and coaches registered to addresses in CAZ	CAZ businesses	HGVs and coaches	Birmingham	HGVs and coaches registered within the CAZ will be exempt from the CAZ charge. Max 2 vehicles per company. This is not limited to SMEs.
HGVs with existing finance agreements	Birmingham businesses	HGVs	Birmingham	HGVs registered in the Birmingham City Council area, travelling to the CAZ, with an existing finance agreement beyond 2020 will be exempt from the CAZ charge.
SME Vans	CAZ businesses (SMEs)	Vans	Within CAZ	Vans registered to SMEs within the CAZ will be exempt from the CAZ charge. Max 2 vehicles per company.
Vans with existing finance agreements	Birmingham businesses	Vans	Birmingham	Vans registered within the Birmingham City Council area, travelling to the CAZ, with an existing finance agreement beyond 2020 will be exempt from the CAZ charge.
Cars and vans of CAZ residents	CAZ residents	Private cars/vans	Within CAZ	All private car and van owners who are residents of the CAZ, as defined by DfT registration information, will be exempt from the CAZ charge.

Income deprived working within the CAZ	Income deprived	Private cars/vans	West Midlands	Income deprived residents of the West Midland Combined Authority area whose usual place of work is in the CAZ area will be exempt from the CAZ charge.
Key workers working within the CAZ	Key workers (Emergency Services, education, armed forces, NHS)	Private cars/vans	West Midlands	Key workers and volunteers living in the West Midlands Combined Authority area whose usual place of work or volunteering is in the CAZ area will be exempt from the CAZ charge.
Hospital and GP visits	Hospital patients and visitors	Private cars/vans	All	Visitors to selected hospitals, GP centres and care homes will be exempt from paying the CAZ charge.
Community and school transport	Section 19 transport providers	Vans/ minibuses	All	Vehicles that serve the community and are classified as Section 19 operators will be exempt from the CAZ charge.

5.14.3 In addition to the exemptions above it is also proposed that emergency services vehicles, show vehicles and motorcycles are exempted from the CAZ charges.

5.14.4 Exemptions will continue to be kept under review to ensure they are appropriate and do not affect the Council's ability to achieve compliance.

5.15 **Proposed Clean Air Fund measures to support individuals and businesses**

5.15.1 In order to secure funding from the Government's Clean Air Fund the Council must robustly evidence the need for funding by clearly setting out the negative impacts of the local plan on individuals and businesses and establish how the proposals for the Clean Air Fund minimise these impacts.

5.15.2 This includes providing a clear rationale for the intervention by providing a robust distributional analysis of the negative impact of local plans on individuals and businesses, following the options appraisal guidance. The consultation responses are being used to refine the proposals in discussion with JAQU.

Mitigation measure	Target group	Target fleet	Geographical Scope	Description
Mobility credit	Low-income living or working within the CAZ	Private car/van	West Midlands Metropolitan Area	Mobility credit of £1000 offered to low income non-compliant car owners living or working

				within the CAZ to be supplied on a SWIFT card with no expiration for use.
Scrappage scheme or mobility credit	CAZ residents and low-income group	Private car/van	West Midlands Metropolitan Area	Enhanced measure targeted at CAZ residents and low-income households that regularly travel to the CAZ. With evidence of scrapping a non-compliant car the target group will receive either: £2,000 cash payment toward the purchase of a compliant vehicle. £2,000 mobility credit. Credit to be supplied on a SWIFT card with no expiration for use.
Taxi operational support package or LPG retrofit scheme	Taxi drivers with non-compliant Hackney carriages	Hackney carriages	Birmingham	Birmingham Licenced Taxi drivers with non-compliant Hackney Carriages will be offered support payments to be paid toward the purchase or lease of a ULEV vehicle. This is forecast as £5,000 over 4 years. Alternatively, the target group can choose to receive support (£5,000) for an LPG retrofit of their current vehicle, this includes those who must first purchase an eligible LTI TX4 Hackney Carriage vehicle before carrying out the retrofit.
Council taxi leasing scheme			Birmingham	Birmingham City Council to purchase 50 ULEV taxis to lease out to most vulnerable drivers.
Free Van miles on BCC charging network	Birmingham businesses	Vans	Birmingham	Drivers of electric vans registered in the Birmingham City Council area can register to receive free credit on Birmingham's

				public charging network.
HGV and Coach compliance fund	Businesses	HGV, Coaches and LGVs/Vans	West Midlands Metropolitan Area	HGV and Coach fleet operators within the West Midlands Combined Authority area will be able to apply for either: a cash payment towards retrofit technology that will make their vehicles compliant. money towards the purchase/lease of a new or second-hand compliant vehicle. Applications will be judged against criteria designed to target impacted groups.
Resident parking scheme	Residents living near the CAZ	N/A	Areas close to the CAZ boundary	Implementation of residents parking schemes to prevent displacement parking at the edge of the CAZ.

5.15.3 Additionally it is proposed to fund a package of behaviour change and marketing campaigns to educate different user groups on journey planning, Delivery Service Plans and on the benefits of ULEVs to support non-compliant vehicle owners.

5.16 **Birmingham City Council Fleets**

5.16.1 There is no direct financial impact of the CAZ on the Council owned fleet. A Green Fleet review was carried out in 2015 that identified an ageing Council owned fleet with low mileage, where Waste Management owned the majority of the Council fleet. The report recommended cycles for vehicle replacement aligned to vehicle age and service delivery requirements, and which bring about more efficient and economic fleet utilisation.

5.16.2 Fleet replacement strategies have been developed across all service areas. In addition, Corporate Procurement Services have developed a vehicle 'hire and lease' framework to enable easy vehicle replacement with flexibility for service needs and cost efficiencies.

5.16.3 The Waste Management fleet replacement strategy, as a major long term strategy, is set to be presented to Cabinet this October for approval. Work continues to ensure that Council fleet vehicles operating within the CAZ area are prioritised, to ensure they meet the CAZ standards.

5.17 **CAZ Charges**

5.17.1 As set out in the report to Cabinet on 26th June, charges from London were used as indications of the potential level of charge that may be payable. Within the

questionnaire, respondents were asked to comment on proposed charges. The council is considering the feedback on pricing and has commissioned a piece of work to refine and finalise charges.

5.17.2 This is being undertaken alongside work with other Clean Air Zone cities outside of London to look at adopting consistent charging structures where possible. This has been a key issue raised through the consultations in each city.

5.17.3 Birmingham's CAZ charges will be confirmed at a later date.

5.18 **The Brum Breathes Air Quality programme and Longer Term Strategy**

5.18.1 As noted in the report to Cabinet in June, a wider programme of works is already ongoing to improve Birmingham's air quality. However, it is acknowledged that this will need to be expanded to maximise the impacts of the Clean Air Zone and these measures.

- Changes to the licensing arrangements – requirements for the Council licensed taxi fleet will be in line with the CAZ standards as a minimum by December 2019.
- Tyseley Energy Park – on site hydrogen production, testing use of renewable energy to ascertain commercial of refuelling facilities for hydrogen buses and market take up of zero emission vehicles.
- Hydrogen buses – up to 22 hydrogen buses to be procured by the Council and deployed in 2019.
- LPG taxi retrofit programme – 65 taxis have been retrofitted to LPG, trialling a new low emission technology solution.
- Electric vehicle chargepoint network – s£2.92 million secured from the Office for Low Emission Vehicles to support implementation of a city level electric vehicle chargepoint network, to include 197 charging points for taxis and a public accessible network for fast and rapid charging. Implementation is anticipated to start from in 2018, with initial focus on the taxi charging infrastructure and renewal of current public charge point network.
- Clean bus vehicle technology – Transport for West Midlands (TfWM) have secured £3m, matched by £2.9m from bus operators to enable 364 buses to be retrofitted with kits that tackle exhaust emissions and ensure that buses entering the CAZ meet the standards.
- Reviewing of corporate staff policies.
- Supporting the expansion of Car Clubs across the city.

5.18.2 The Clean Air Zone is part of a longer term strategy to address air quality and to continue to raise awareness of the impacts of poor air quality on health. The Council will be consulting on a Birmingham Air Quality Strategy later in the year which will set out the wider action the Council and its partners need to take to achieve further improvements.

5.18.3 There will also need to be further collaborative action across the West Midlands, and the opportunity for funding for further measures will need to be explored with the West Midlands Combined Authority and Government. These could include:

- Support and funding for a wider West Midlands Network Resilience Travel Demand Programme which brings about behaviour change to create more sustainable journeys. Funding to the city region level ensures a co-ordinated approach across a broader geography for many origins and destinations. This will include reduced fare ticketing packages, contactless ticketing and improved information.

- Continued investment in bus priority measures for a set of core bus network corridors agreed between the Bus Alliance partners of the Council, TfWM and bus operators.
- Further investment in high quality cycling schemes and measures.

5.19 **Next Steps**

- 5.19.1 Subject to Cabinet approval the Council will submit its Preferred Option Business Case to the Government by 15th September 2018 which it considers satisfies the requirement of the Ministerial Direction issued in December 2017 in all of the circumstances. It is important that the Council now provides the clearest possible message around the proposed introduction of a Clean Air Zone so that individuals and businesses can start to consider and make the necessary changes.
- 5.19.2 Given the scale of the response to the consultation, the Council will continue to work with JAQU to finalise the details in the Business Case. It is fully acknowledged that this is an extremely challenging and complex process which will have significant impacts on the city, and which will require constant monitoring and review.
- 5.19.3 Whilst a CAZ D plus additional measures continues to be the preferred option, the Council has been advised that it is critical to understand and react to all consultation responses, and for the final scheme to be informed by those responses.
- 5.19.4 The Council is committed to reviewing the measures proposed (including the timescales and nature of that process) to ensure that it continues to take every rational and reasonable step to secure compliance in the shortest possible time.
- 5.19.5 Engagement with stakeholders and the public will continue as the scheme proceeds towards implementation, particularly regarding measures to mitigate the impacts.
- 5.19.6 A key area for further development relates to the implementation stage, particularly the Government's preferred approach regarding the operation of the back office system for Clean Air Zones nationally and to finalise the procurement strategy.
- 5.19.7 The Council will also re-run its transport and air quality models to ensure that they reflect the latest position assumptions including the impact of changes due to the proposed mitigations. The impact of these measures on the date of compliance is not considered a concern for a number of reasons:
- The measures are designed to help individuals and organisations switch to cleaner compliant vehicles earlier than they normally would, so it is not envisaged that any measure would delay compliance.
 - For commercial fleets, especially in the case of taxis and HGVs, it is assumed that the vast majority would switch their vehicle as a result of the CAZ irrespective of any mitigation measures. Therefore, the measures should not impact the rate of compliance but instead make it financially easier for those who are most likely to struggle to switch their vehicles
 - For private individuals, the measures are designed to deter non-compliant vehicles from entering the CAZ and so are not considered to prevent compliance in any form.
- 5.19.8 Key Milestones for CAZ implementation are:
- Approval of the Procurement Strategy – October 2018;
 - Funding Approval – late 2018
 - Scheme delivery – Winter 2018 – September 2019;
 - Testing/Commissioning – September 2019 – December 2019;

- CAZ 'Go Live' – January 2020

5.19.9 A subsequent report will seek approval for the Procurement Strategy and approval to commence with the required procurement activities.

6. **Evaluation of alternative option(s):**

6.1 Alternative options including a do nothing option have been considered, however, this would not meet the legal requirements of the ministerial direction to achieve compliance in the shortest possible time.

6.2 The Council could have chosen to undertake a two stage consultation on a Clean Air Zone; however, this would have delayed the submission of the Preferred Clean Air Zone Option Business Case. This would be contrary to the Secretary of State's direction and has therefore not been pursued.

6.3 Either of the alternative options above may lead to:

- failure to achieve compliance with air quality standards as defined in EU directives, which have also been incorporated into national legislation. This could result in significant infraction fines being passed down to the local authority by the government utilising the Localism Act
- the Government imposing a solution on the city
- failure to improve air quality and the risk of failing to deliver the public health benefits in terms of reductions in deaths and ill health associated with poor air quality.

6.4 Failing to take any action towards achieving compliance would leave the Council at risk of 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.

7. **Reasons for Decision(s):**

7.1 To enable progress with the Clean Air zone in line with the requirements being set by Government including submission of the Business Case.

7.2 Failing to take any action towards achieving compliance 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.

Signatures

Date

Councillor Waseem Zaffar
Cabinet Member for Transport
and Environment

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Waheed Nazir
Corporate Director Economy

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List of Background Documents used to compile this Report:

- “Birmingham Connected White Paper”: Birmingham City Council, November 2014
- “West Midlands Integrated Transport Authority Strategic Transport Plan: ‘Movement for Growth’”: report to Cabinet Member for Development, Transport and the Economy jointly with Deputy Chief Executive, 15th October 2015
- Clean Air Zone Framework - Principles for setting up Clean Air Zones in England. Defra & DfT 2017
- UK plan for tackling roadside nitrogen dioxide concentrations, Defra, 2017
- The Impact of Poor Air Quality on Health in Birmingham, Overview & Scrutiny Committee, September 2017
- Tackling Air Quality in Birmingham, Cabinet Report, June 2017

List of Appendices accompanying this Report (if any):

- Appendix 1 – Clean Air Zone Preferred Option Business Case
- Appendix 2 – Clean Air Zone Consultation Analysis Report
- Appendix 3 - Matrix, consultation response and proposed mitigating measures
- Appendix 4 – Equality Analysis (EQUA79)
- Appendix 5 – Ministerial Direction

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in section 4.4 of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

- 1 The Council must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 5 The relevant protected characteristics are:
 - (a) marriage & civil partnership
 - (b) age
 - (c) disability
 - (d) gender reassignment
 - (e) pregnancy and maternity
 - (f) race
 - (g) religion or belief

- (h) sex
- (i) sexual orientation