

# LGA submission to tackling nitrogen dioxide in our towns and cities consultation

15<sup>th</sup> June 2017



## About the Local Government Association (LGA)

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

## Summary

The LGA welcomes efforts to improve air quality. We believe this framework highlights some of the necessary measures to do so. We hope that the Government improves the strategy as a result of consultation and engagement with local authorities. As well as submitting this response the LGA hopes we can continue to work with Government to suggest improvements to the strategy and ensure we meet the Government's responsibilities in delivering clean air across the country.

We have some specific points to make which are further reflected in our answers to questions. The points may be made more than once where they are appropriate to answer the questions posed by the consultation.

However the LGA's view is that:

- Air quality is a national responsibility; therefore national government should ensure resources are in place to help ensure compliance. This needs to mean that local authorities are resourced to deliver and DEFRA are adequately resourced to properly liaise with all affected areas.
- The measures proposed have the potential to bring about compliance with the EU directive.
- The consultation document seems to conflict with the technical report. The Government should be clear on what will work. They must also remove onerous requirements for local authorities to justify not taking steps that the Government's own evidence says will not work.
- The status of the currently mandated cities and whether more will be added to that list should be clarified.
- The Government should implement other powers focused on traffic management to reduce congestion immediately.
- Retrofitting and other technical solutions should go hand in hand with a commitment to modal shift towards public transport.

Clear guidance is needed on how we will reach the Government's target of 100% ULEV by 2050 to allow people to prepare for the transition and make informed decision about purchasing new vehicles.

# Submission

In producing this submission we have consulted with our associated Local Government Technical Advisers Group (TAG) who from a technical point of view fully endorse this submission.

## Detailed Response

### 1. **How satisfied are you that the proposed measures set out in this consultation will address the problem of nitrogen dioxide as quickly as possible?**

The measures proposed in the plan have the potential to make a difference to air quality and bring the UK closer to compliance. However one of our most important criticisms of the plan for Clean Air Zones applies to the wider strategy as well. The consultation does not provide any sense of a hierarchy of interventions in contrast to the technical document. This is crucial for local authorities to understand which interventions will make the greatest impact most quickly and which interventions the Government favours. The technical document gives a clear idea which interventions would be effective however this work is not reflected in the consultation document or draft plan.

The technical report accompanying the consultation document sets out clearly that CAZ's are the measure that will have the most significant impact in bringing NOx levels down in areas of exceedance compared to all other measures. Whilst more authorities have been mentioned in the strategy and will be required to produce a clean air plan it is not clear whether these authorities will be required to introduce a CAZ as part of their plan and whether these will be chargeable CAZs. It is also not clear what type of chargeable zone the original five cities will be required to introduce. The basis of this policy was the secondary legislation that was consulted upon in the autumn but has not been re-introduced with this consultation.

As it is DEFRA's plan to require all authorities that have an area of exceedance to submit a plan for approval by the Secretary of State, without a greater understanding of what DEFRA considers the most effective interventions, and in what circumstances, it is difficult to know whether a plan will be acceptable to the Secretary of State. We assume that DEFRA will stand by the evidence it has released in the technical document but this is not clear in the draft plan. The plan also puts an onerous new requirement on authorities to demonstrate that they have considered the impact of all possible measures. This will place an unnecessary burden on areas that have been mandated as presumably they will have to demonstrate the ineffectiveness of measures that they are legally obliged not to carry out. Those authorities who are not mandated will have to demonstrate the ineffectiveness of measures that DEFRA's own technical report clearly indicates will not achieve the required improvements to reach compliance.

The LGA responded to the consultation concerning the implementation of CAZs. It is not clear whether further cities will be mandated to implement a CAZ once this consultation is concluded. Many of our comments from this consultation have not been addressed and we await the views of the new Government on what, if any, secondary legislation will be brought forward to mandate the original five cities.

In addition, the plan states that the Secretary of State will require authorities to demonstrate that the measures adopted will bring about compliance in the quickest possible time and whilst avoiding detrimental impact on local businesses. It is likely that these two imperatives will be in conflict. We would welcome clarity on which is considered more important when drawing up plans especially given that the ClientEarth judgement was clear that 'as soon as possible' should be

understood to mean measures that were likely to be successful as quickly as possible without regard to economic considerations until compliance is reached.

Whilst the CAZ framework does highlight some of the interventions that would have the most impact it does not recognise the deliverability of the measures proposed. Following a 40% reduction in central government core funding for councils in the last Parliament, local government revenue funding continues to be under pressure from increases in demand for services, such as adult social care. This will make it very difficult for councils to afford the suite of general measures proposed, such as educational campaigns. Other measures need significant investments in both upfront capital but also ongoing revenue support. In order to obtain funds for this kind of work significant officer time is needed to access fragmented funding streams, often through competitive bidding. In order for the measures highlighted to be successful they must be accompanied by long-term certainty of revenue funding in order to support their delivery and/or a revenue stream that will be sufficient to maintain their delivery. Even limited interventions like signage need to be maintained otherwise their effectiveness is minimal.

The consultation makes reference to the idea of a diesel scrappage scheme, which the LGA would welcome. A diesel scrappage scheme would increase the rate at which the vehicle fleet is replenished whilst targeting diesel vehicles, which the consultation acknowledges have the biggest impact in the areas that are currently exceeding limits. Road transport currently constitutes 34% of NO<sub>x</sub> emissions and this increases in areas currently in exceedance. On average around 80% of NO<sub>x</sub> emissions in areas where the UK is exceeding NO<sub>2</sub> limits are due to transport. It should also be remembered that up to about 1/3 of total traffic is on the strategic road network which is accordingly impacting general air quality to a considerable extent – it must be central government's responsibility to address this.

The consultation makes reference to the funding available for switching to low emission vehicles. The LGA welcomes efforts to encourage the take up of ultra-low emission vehicles (ULEV). It is clear that the funding is currently not extensive enough to make the changes to the vehicle fleet necessary to deal with the problem. ULEVs currently account for less than 1.4% of new vehicle registrations. Whilst this is a significant improvement from a few years ago, given the life span of vehicles it means that a step change in buying habits is needed.

The LGA supports investment in retrofitting the UK's bus fleet. Buses have a life cycle of 15 years so even with more robust euro emission standards properly implemented it will be a long time before the bus fleet across the country is replenished by vehicles using cleaner engine technologies. We welcome retrofitting those vehicles already on the road as this will make an immediate impact to emission levels. Buses also form part of the long term solution to air pollution issues as they have much lower emissions per journey than other types of transport, especially cars. They also take cars off the road which reduces congestion and smooths traffic flows, which also improves emission levels. The LGA believes that the long term solution to dealing with the UK's problems with air quality must include initiatives to increase the amount of journeys taken by public transport. We believe that the Government could help do so by devolving BSOG payments in order for councils to prioritise subsidies where they would best support a comprehensive network and it should fully fund concessionary fares to ensure that local government can afford to deliver concessionary passes without reducing other bus related expenditure.

The recent changes to vehicle excise duty flattens the incentive to purchase low

emission vehicles. The changes should be reviewed to ensure the VED regime does as much as possible to encourage the purchase of low emission vehicles. These comments would apply equally to the HGV road user levy. Utilising other fiscal levers, such as fuel duty, or reviewing the Company Car tax in order to develop incentives to switch from diesel to ULEV vehicles should also be considered

The LGA welcomes the Government's commitment to procure a greener fleet for the public sector. Many local authorities would share the Government's ambition to use their procurement power to move towards lower emission alternatives. However it must be noted that currently the market for low emission vehicles in light goods vehicles and specialist vehicles that councils and our contractors require is not well developed. In many instances there are not any non-diesel options available. The fragmented nature of local government procurement and its small scale when compared to the private market for these vehicles means that we must be realistic in recognising to what extent we can influence changes in the marketplace. It is welcome that the Government recognises that the purchasing power of central government is a more significant driver in this.

The LGA would welcome further measures to tackle congestion. The LGA has called for the full implementation of Part 6 of the 2004 Traffic Management Act, access to lane rental powers, and support for authorities that wish to introduce a work place parking levy. These three powers have already been introduced in some parts of the country and have proved effective in managing traffic flows whilst being self-funding. Working to reduce congestion and smooth traffic flows should form a key part of the clean air strategy and these powers would be simple for the Government to introduce.

The Government's desire to continue to highlight measures like junction redesign and removing speed calming measure whilst ignoring the fact that councils lack powers to enforce moving traffic offences is unfortunate. Councils must be given a full set of powers to regulate traffic flow in order to reduce emissions rather than the current Government focus on continually trying to build our way out of the problem. The approach of redesigning and rebuilding is of questionable long term value and would lead to immediate increases in emissions whilst roadworks were needed to rebuild junctions, leading to traffic and emissions directly from the works themselves. It could also potentially have health implications as traffic calming measures would have been introduced to address road traffic accidents. We could simply be addressing one health problem by causing another.

## **2. What do you consider to be the most appropriate way for local authorities in England to determine the arrangements for a Clean Air Zone, and the measures that should apply within it? What factors should local authorities consider when assessing impacts on businesses?**

The LGA is calling for freedom for local councils to shape these plans to deliver air quality improvements. Individual local authorities will be best placed to understand the root causes behind air quality issues and come up with responses that suit local circumstances.

The LGA fully supports allowing local discretion, however, as it stands it is not clear whether the existing CAZ framework offers this. It potentially allows the Government to mandate some CAZs and sets up the Secretary of State as the arbiter of whether local plans are sufficient without giving criteria to judge them by. The fact that a CAZ can be both charging and non-charging further risks complicating the issue. The framework makes clear that a CAZ should seek to improve public understanding of the issue but this is unlikely if the Government is

not clear on what the solution should look like.

Developments since the consultation launched further risks delaying and confusing what is required of councils. Not satisfied that Government's own analysis identifies charging CAZs as by far the most effective measure to reduce emissions, yet saying that they are effectively only to be considered as a last resort, ClientEarth has asked the High Court to order the Government to publish a supplement to the consultation. ClientEarth wants the Government to issue a further document for the purpose of consulting on the possibility of charging CAZs as the primary measure for tackling NO<sub>2</sub> exceedances in the draft AQP.

The Government has a responsibility to the public, to local authorities and business to be clear about its plans. Repeated court cases and changes in plans risks further delays in compliance, uncertainty for councils and more premature deaths from poor air quality.

It is clear that the evidence base for the impact to business and the local economy of the implementation of a Clean Air Zone must be based upon demonstrable economic indicators and not just perception. There is evidence from the implementation of the work place parking levy in Nottingham that the perceived impact during the consultation phase did not translate to any noticeable economic impact once the WPL had been implemented. Inward investment into Nottingham was sustained and there was no observed exodus of employers out of the city. Councils will want to ensure that any implementation of a CAZ is based on a robust evidence base.

DEFRA should also ensure the feasibility work in all affected areas is fully funded. Areas that currently exceed clean air levels need immediate government support to work up plans. Drawing up a costly bidding process to access funding will complicate the process and delay action. DEFRA should commit to funding and provide officer resource in order to immediately aid local authorities in completing necessary viability work to draw up the new plans. We also need to be sure that DEFRA will be sufficiently resourced to manage engagement with significantly more authorities than has been the case up until now. Local authorities will need regular and detailed engagement with DEFRA and this can only happen if both sides are sufficiently resourced.

**3. How can Government best target any funding to support local communities to cut air pollution? What options should the Government consider further, and what criteria should it use to assess them? Are there other measures which could be implemented at a local level, represent value for money, and that could have a direct and rapid impact on air quality?**

**Examples could include targeted investment in local infrastructure projects. How can Government best target any funding to mitigate the impact of certain measures to improve air quality, on local businesses, residents and those travelling into towns and cities to work? Examples could include targeted scrappage schemes, for both cars and vans, as well as support for retrofitting initiatives. How could mitigation schemes be designed in order to maximise value for money, target support where it is most needed, reduce complexity and minimise scope for fraud?**

Where an authority is being compelled to take action, these actions should be fully funded. Ensuring that the UK meets European directives on clean air is the responsibility of the national government. This was established in the Treaty on European Union (TEU), Article 4(3): "Member state shall take any appropriate

measures, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The member states shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives." Councils want to support the Government in delivering clean air but we cannot be asked to take on a function of central government without the funding and powers to make meeting it possible.

We agree with the Government that traffic speed and flow can impact on NOx emissions, which are typically 4 times higher when an engine is under higher loads, such as during acceleration and therefore measures to reduce congestion, and stop-start traffic, can also have air quality benefits. This is why the LGA have called for a number of measures that are already on the statute books and can be readily implemented, resulting in both air quality and reduced congestion.

The LGA has called for:

- The full implementation of part 6 of the Traffic Management Act 2004
- Access to lane rental powers
- Support for authorities that wish to introduce a work place parking levy.

The implementation of powers to enforce moving traffic offences (equivalent to Part 6 of the Traffic Management Act 2004) in Cardiff showed an immediate and sharp decline in the number of penalties being issued which demonstrates it can have an immediate impact in improving driver behaviour. By ensuring that drivers adhere to traffic measures like yellow box junctions which smooth traffic flow such powers could play a key part in reducing congestion and improving emissions.

Nottingham has demonstrated that the Workplace Parking Levy can reduce traffic levels in the morning peak and improve journey times. It has also helped divert significant numbers of journeys towards public transport. In Nottingham's case through expansion of its tram network which is run by electric motors and contributes no tail pipe emissions.

Kent's lane rental trial has reduced the average length of major works on key routes by a day. This means less traffic jams on strategic routes and smoother traffic flows with the associated benefits for air quality.

These three powers have already been introduced in some parts of the country and have proved effective in managing traffic flows whilst self-funding. Working to reduce congestion and smooth traffic flows should form a key part of the clean air strategy and these powers would be simple for the Government to introduce.

The LGA would support bus retrofitting but funding must be part of a wider strategy to address the decline in bus patronage. Buses can be part of the solution to our air quality problems if they are the means to divert more people out of cars. The long term decline in bus journeys has hurt air quality as a result of more journeys being taken by car, both increasing emissions and congestion. We should seek to have the greenest bus fleet possible but also seek to divert journeys towards public transport in order to maximise the benefits of greening our bus fleet.

It is important that retrofitting schemes receive accreditation as soon as possible. It is difficult to get operators to invest in retrofitting if they cannot be confident that the technology they have invested in will not be recognised. It is vital that accredited schemes are in place across the country as soon as possible. The technical document recognises that there is a constraint in the current market

capacity for retrofitting but does not propose measures to address this. We believe that this should be examined.

We welcome moves to introduce a scrappage scheme and a degree of targeting may ensure the money available is able to go further. The TFL proposals for a targeted scheme should be given consideration but this must be balanced against the fact that many of the areas affected are affected because they attract traffic and visitors from other parts of the country, or are part of key routes across the country. Localised schemes may not address these problems. There are no safe levels for nitrogen dioxide. Given the proportion of the current UK vehicle fleet that is currently diesel it would be beneficial to public health to seek to change the composition of the UK vehicle fleet and scrappage incentives would speed up this process.

**4. How best can governments work with local communities to monitor local interventions and evaluate their impact? The Government and the devolved administrations are committed to an evidence-based approach to policy delivery and will closely monitor the implementation of the plan and evaluate the progress on delivering its objective.**

The LGA would welcome a more consistent and transparent approach to air quality monitoring. We must invest in greater monitoring in order to have a more accurate picture of the problem. Whilst we accept that some element of monitoring will always be required local authorities would prefer that in the future that action is based on observed evidence, especially given the problems that we have had with modelling data during this process. Many authorities have long standing and well understood monitoring data which has contradicted DEFRA models. These discrepancies must be fully examined and resolved before any action is taken on clean air zones that may not be required, a clear and consistent approach to air quality modelling nationally would also be beneficial in this respect

The Government also needs to work more closely with partners to understand where modelling data may be overly pessimistic or ignore significant anticipated developments. For instance in areas that have had or anticipate significant construction traffic or transport systems that are scheduled to undergo a substantial investment in the near term.

**5. Which vehicles should be prioritised for government-funded retrofit schemes? We welcome views from stakeholders as to how a future scheme could support new technologies and innovative solutions for other vehicle types, and would welcome evidence from stakeholders on emerging technologies. We currently anticipate that this funding could support modifications to buses, coaches, HGVs, vans and black cabs.**

As we have already stated in our earlier answers retrofitting should be part of a wider strategy to increase the number of journeys done by bus. The emissions per journey of a bus, even before retrofitting, mean it can make a significant impact in reducing emissions. The spin off benefits of greater bus use, including a reduction of congestion and smoother traffic flows, would also help improve air quality.

We should also examine the extent to which specialist vehicles can be retrofitted as these vehicles will almost certainly have to wait the longest for alternative fuel variants to be developed. The market for some specialist vehicles is comparatively small and so will offer a lower return on investment for manufacturers to develop alternative fuel variants. It is therefore worth considering whether these types of vehicles should be encouraged for retrofitting

whilst other vehicles types are encouraged to take up ultra-low emission technologies.

## **6. What type of environmental and other information should be made available to help consumers choose which cars to buy?**

The LGA welcomes the introduction of real world emission testing and making this information available to consumers. These steps are welcome and will help consumers make informed decisions when purchasing vehicles. They will also help build public understanding on the need for action. However their impact will be limited to those members of the public who choose to buy a new vehicle each year. Currently only 2.7 million of the approximately 32 million cars are newly registered each year. With many of those purchases made by fleet buyers it is unclear whether these interventions will have an effect in the quickest possible time. There must be consideration that a significant number of vehicles are leased, rather than purchased, as such the role of leasing agencies must also be incorporated. As stated above fiscal levers such as the Company Car tax could be pivotal in creating increased demand for ULEV's that the lease industry would need to respond to.

However what is needed most of all is a clear indication of how the Government intends for the UK to make the transition to zero emission. A long term approach is needed with clear guidance on the future tax treatment of various technologies. Additionally this approach must also reflect the changing relationship between vehicles ownership and mobility. Government need to consider that mobility as a service – particularly that facilitated by smart technology and 'on-demand' journey fulfilment will change the market for vehicles purchasing.

The LGA believes that there is not sufficient medium to long term planning going into the transition to zero emission vehicles. We currently have a series of small scale, but still welcome, initiatives that have pushed take up of ULEV to some degree. We also have the long term target of zero emissions by 2050. We currently lack medium term thinking about how the transition will be managed.

What will empower the step change in buying habits? How will consumer's anxiety about the range of vehicles be addressed? Can we effectively map who will buy vehicles and who will purchase mobility as a service and what this means for the transportation that will be needed in cities? Who will own the charging or other fuelling infrastructure needed and who will pay for building it before it becomes commercially viable? How will we manage the process of multiple different types of fuel being used on our roads simultaneously whilst the transition occurs? How will we ensure that our electricity grid has the capacity to cope with the demand of powering the vast majority of energy used in passenger and freight transport as well as our current domestic and business energy demand? How will the need for renewable energy generation and battery storage be considered as part of the solutions to creating low emission transport infrastructure? These questions remain unanswered and whilst they may be beyond the scope of this plan we need assurance that they are questions that the Government is proposing to answer.

## **7. How could the Government further support innovative technological solutions and localised measures to improve air quality?**

The Government has the ability through its purchasing power and through its industrial strategy to ensure that a market is developed for the low emission vehicles that local government requires. At the moment procurement decisions are often taken based purely upon what is available and individual councils lack



the purchasing power to influence the market in a way that would result in manufacturers developing new technology.

The Government has provided pilot funding for Total Transport measures over the last two years. This approach has proved successful in reducing the amount of journeys taken by the public sector vehicle fleet which will have reduced emissions. Disseminating the lessons from this project and renewing its funding could help reduce the number of public sector fleet journeys with the associated benefits that would bring.

**8. Do you have any other comments on the draft UK Air Quality Plan for tackling nitrogen dioxide?**

Clarity is needed on the extent to which the Government will compel action. The original strategy involved compelling a number of authorities to take action. The LGA disagrees with this approach,

It is unclear how this plan is more robust than the one it replaces nor how this will deliver improvements quicker than the original 2020 timetable. However it remains our desire to work with the Government to improve this plan and introduce measures to improve air quality rather than see any further delay.

Non-Transport NOx emissions also need to be addressed, such as those from off-road construction vehicles and domestic boilers. Regulatory levers would provide a way of limiting emissions from these if effective enforcement of national minimum standards were established.