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By email to: air.quality@defra.gsi.gov.uk

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Dear Sir,

Local Air Quality Management – Consultation on options to improve air quality management in England

We are writing in response to the above consultation. The Air Quality Committee of Environmental Protection UK has considered the consultation documents and welcomes the opportunity to comment. These comments represent an overview of the Committee, but do not necessarily reflect the views and opinions of individual Environmental Protection UK members.

About Environmental Protection UK

Environmental Protection UK is a national charity that provides expert policy analysis and advice on air quality, land quality, waste and noise and their effects on people and communities in terms of a wide range of issues including public health, planning, transport, energy and climate.

We offer clear and critical analysis of UK government and European Union policy proposals through a range of high-quality publications and expert-led events, as well as up-to-date regulatory information through our comprehensive guide to UK and EU environment legislation.

Environmental Protection UK works with UK national and devolved governments, local authorities, business, academics and the general public, and with relevant EU institutions and NGOs.

Response to Consultation

In general terms we welcome the proposals within the main Consultation Document, which seeks to streamline reporting, introduces a role for local authorities in reducing emissions of PM_{2.5}, seeks to clarify roles and responsibilities, and commits to improving best practice and evidence-based measures. The proposals to revise policy and technical guidance are key to delivering some of these measures, particularly in clarifying roles and responsibilities in two-tier authorities and within other responsible organisations (such as the Highways Agency). It

is vital that ambitious, robust and detailed guidance is developed to support the principles outlined in this Consultation and our response. We would be happy to be involved in this process.

We welcome some of decisions arising from the last consultation in August 2013, including the continued separation of the EU limit values and objectives, and the retention of the current arrangements for AQMAs.

However, we are extremely alarmed by the apparent mismatch between the Consultation Document and the Impact Assessment. Whilst the Impact Assessment sets out some useful policy objectives, the financial analysis which identifies the expected costs savings to local authorities and some of the supporting statements seem to be based on several extreme assumptions which are not supported by the measures set out in the Consultation Document, nor are they covered by the three consultation questions.

It is the view of EPUK that Defra's proposal as quantified in the Impact Assessment would have devastating implications across all spheres of air quality management, assessment and research, as it assumes a substantial reduction in assessment and monitoring, which are the basis for effective action. While we welcome Defra's assurance that the consultation is not recommending any outcome that would see a reduction in monitoring of NO₂ or PM, it is not clear that this is supported by the consultation documentation.

The key areas of concern include:

- the loss of much review and assessment work, making it impossible to assess the baseline pollution levels and source apportionment work, which are the basis for all effective actions;
- the loss of local monitoring, which makes it impossible to assess the baseline pollution levels and implement effective actions;
- Local Authorities relying on national modelling for local assessment, which does not consider local conditions, such as sources, topography and exposure;
- the expectation that more air quality actions will be implemented following the loss of the review and assessment work; and
- the lack of effective measures to ensure the active involvement of other organisations with control over key sources, such as County Councils and the Highways Agency.

As the consultation questions do not reflect the issues raised by the Impact Assessment, we have addressed the various issues under the headings below.

Proposals 1 & 2 - Review of LAQM pollutant objectives

Question 1: Does the draft statutory instrument achieve its stated purpose of removing the four pollutant objectives for LA reporting purposes?

We have concerns over the definitions of pollutants and measurements metrics used here, which are inconsistent with those in the EU directives. It is essential that the assessment methods should be different for local air quality management and demonstrating EU compliance, as these have different immediate aims. However, having different definitions of the pollutants and appropriate measurement metrics (such as averaging times and data capture rates) could lead to confusion and increased measurement costs.

Question 2: Do you have any final comments regarding the decision to remove the four pollutants and in particular on the assessment of costs and benefits?

Currently, local authorities expend little, if any effort, in undertaking reviews and assessments for pollutants other than nitrogen dioxide, PM₁₀ and (to a much lesser extent)

sulphur dioxide. There is an opportunity to remove 1,3-butadiene, benzene, carbon monoxide and lead from the objectives, if it can be demonstrated that in practice current ambient levels do not pose a risk to human health, and EPUK is in support of this. We support the decision not to remove the 15-minute mean sulphur dioxide objective, as this is consistent with the WHO guideline.

Local authorities should recognise the role that they can play in reducing PM_{2.5} emissions and concentrations, and be required to address this within their action plans. However, local authorities' role in reducing PM_{2.5} concentrations is necessarily limited, as a substantial contribution of the background anthropogenic component is derived from secondary emissions, arising from outside local authority boundaries.

Local authorities can make useful contributions to reducing emissions and/or concentrations of PM_{2.5} through the development of Air Quality Strategies, the introduction of Low Emission Strategies, and controls on local sources on PM_{2.5} emissions such as biomass installations.

It would be useful to provide more guidance on how to include PM_{2.5} into LAQM work. We recommend that Local Authorities should be required to assess the impact of PM_{2.5} on all measures under consideration, both in air quality driven actions and actions which will impact on air quality (such as climate change measures and planning). This quantification would help Local Authorities meet their proposed new statutory requirement to work towards reducing emissions of PM_{2.5}, and support local authority public health duties.

We believe that there is no need for local authorities to monitor or model PM_{2.5} concentrations, except in circumstances where local sources of PM_{2.5} are a significant concern. The focus of the European legislation is on the general background as opposed to local hotspot concentrations, which combined with local action on PM₁₀ hotspots protects public health, therefore reliance could be placed on the national assessment.

While we welcome the inclusion of PM_{2.5} in the Public Health Framework, this is an inadequate basis for driving all action on PM_{2.5}, not least because it is a non-statutory document which could be changed at any time.

Question 3: Do you have any evidence on the costs or benefits of our proposals under Part 2 to help us finalise the preferred options and develop the detailed guidance for final consultation in 2015?

Local and national assessment

We welcome the decision not to consolidate the EU limit values and objectives. Although there is a need for close cooperation between the European and local systems, and both are ultimately designed to protect human health, they deliver two different and essential outcomes. The national review demonstrates compliance with European legislation, which provides a high level stimulus for action. The local system is targeted on local hotspots with a resolution that cannot be duplicated at the national level, and can have an immediate impact on human health.

The Impact Assessment states:

“Local air quality hotspots outside the national assessment that might otherwise have been taken into account by LAs might get overlooked and lead to some local health impacts. These are considered negligible and therefore have not been monetised.”

We believe that this relates to PM_{2.5}, but are concerned that this could be interpreted as applicable to all pollutants. The consequences of such an interpretation are dire, as the implication that assessment of compliance could be effectively restricted to just the national assessment is extremely alarming.

Local review and assessment takes into account a level of local detail that is not, and realistically cannot be, considered within the national assessment, and as such, are able to identify and quantify local hotspots of pollution, which has led to many AQMAs that are not identified within the national assessment. Indeed this process was an important factor in the original introduction of the LAQM process. Using national modelling for local assessment would have devastating consequences for local air quality assessment, development control and research, and therefore also on public health, as PM air pollutant currently causes 29,000 premature deaths each year in the UK (with a similar number caused by NO₂ pollution).

Proposal 3 - Streamlining of reporting requirements

While the streamlining of reporting requirements sounds reasonable in the main Consultation Document, the Impact Assessment tells a very different and alarming story.

The Annual Report should include all relevant information that was previously included in the Review and Assessment reports. This should include information on new sources, new pollutants, new exposure, new monitoring data, and updated modelling work. It should also include work that was previously carried out for Detailed and Further Assessments, such as source apportionment. The change should be that this report should be proportionate to the scale of the problem in the local area, so areas with consistently good air quality will only need to provide a short report.

However, the Impact Assessment identifies cost savings for amalgamating the reports equivalent to the total cost of the reports and all underlying work (present value of £13.1m). Although the form of the report will change, the underlying work to assess air quality and the impact of local authority actions is still required. These estimated cost savings are therefore wrong.

In addition, the monitoring required to assess air quality problems and the implementation of actions is also drastically reduced in the Impact Assessment. It is not clear what the basis of these cost savings (high estimate savings for diffusion tube monitoring of £13.7m and Automatic monitoring £41.4m), as the consultation document and website indicate that the requirement for monitoring is unchanged.

There is no justification as to why the proposals will affect local authority monitoring above and beyond that expected in BAU. If the reduction in monitoring costs is assumed to be due to budgetary constraints rather than any changes to the LAQM system, why would these reductions in cost not also be seen in BAU, and therefore not count as a cost saving for the proposed option?

The assessment of these cost savings also refer to an assumption that monitoring will decline as "*there are fewer compliance requirements than BAU*" (high sensitivity case). However it appears that the only compliance requirements that will change are the removal of benzene, 1,3-butadiene, carbon monoxide and lead, which will have a negligible impact on local authority monitoring requirements.

If the cost savings are assumed to occur due to a new option of using national monitoring and modelling, this will lead to a massive reduction in monitoring, given the current financial pressures on local authorities. But local problems will be missed without local monitoring. Without problems being identified, there is no driver for action, and public health suffers even more. It will also be hard to justify necessary actions without adequate monitoring to assess their impacts on local air quality.

It is further noted that the cost savings to local authorities (as shown in Table 2 of the Impact Assessment) are greater than those set out for Option 4 in the 2013 Consultation (which

proposed repealing the LAQM requirements for local authorities). The justification for this is highly unclear.

The lack of detailed assessment of air quality will lead to greater costs and less transparency for others, such as local communities and developers. For example it will increase costs and add delays to planning application process, as the baseline air quality information will be unavailable. A lack of local information available to communities will damage their ability to ensure local accountability.

The drivers for action

The assumption that “*local authorities would take more significant actions to improve air quality rather than reduce focus on air quality overall*” after budget cuts to monitoring is naïve, given the current financial climate. Why would a local authority take more action if there is less information available on the problem?

Without hard evidence on an air quality problem and its impact on human health, these will no longer be a political priority and resources will be moved elsewhere. This will also then affect the availability and effectiveness of advice provided on development control and transport planning issues.

The proposals set out will lead to more deaths and ill health in the UK from air pollution, with the current health burden prolonged for years by lack of adequate action. We will all be affected to some degree, but vulnerable groups, such as children, the elderly and people with existing respiratory and cardiovascular conditions, such as asthma and heart conditions, would suffer the largest impacts.

In the current economic climate, it is naïve to believe that local incentives and pressures from public health and amenities would be sufficient to support local action to improve air quality. There is a mismatch between the scale of the problems caused by air pollution and the visibility of air pollution and its impacts. Air pollution damages health and consequently the economy, the climate, and the natural and urban environment. Its impacts are often not attributed to air pollution by individuals, as they manifest by causing or worsening existing respiratory and cardiovascular conditions. In order to protect public health, a statutory duty on local authorities and those who control emission sources is essential.

The Action Plan and Annual Report should allocate the responsibility for specific actions to the organisations with control over key sources, such as County Councils, Unitary Authorities and the Highways Agency. These organisations should take written responsibility for specific actions and have a duty to report progress on those actions. We included further detail on our recommendations for the Annual Report in our response to the previous consultation.

Proposal 4 - Policy and technical guidance

Cooperation

As we highlighted in our response to the previous consultation, local authorities are best placed to identify and quantify local air quality problems. However it is clear that much better cooperation between different tiers and departments of local government is essential if measures to control emissions are to be effective. Most importantly, the statutory obligation to develop and implement local action plan measures must be focused on those tiers of government where the control of the sources of emissions lies. For example, within two-tier authorities, where transport is controlled by the County Council, a statutory obligation to develop and implement action plan measures should be placed on the County with regard to this sector. This approach would lead to a more coherent process, to identify local problems and develop appropriate and proportionate actions to address these. This would lead to cost savings as significant air quality impacts can be cost effectively delivered through

development control and transport planning. This would also lead to avoided health costs in treating the illness and death caused by air pollution (and its subsequent cost to the economy).

We were disappointed to note that the only measure to help involve organisations which have control over air pollution sources (but many of which have consistently refused to accept that they have duties in such matters under the Environment Act 1995, such as County Councils and, to a lesser extent, the Highways Agency) was to include clarification within guidance that they are unlikely to read. In recent discussions, Defra have stated that the duty for these organisations to cooperate with Local Authorities and take action on air quality, already exists but, as is pointed out above, is generally ignored. If this duty already exists, then proper enforcement of that duty is required by Defra, DfT and DCLG.

There should also be a duty for these organisations to take responsibility for specific actions, and reporting progress on those actions, within the Action Plan and Annual Report.

The need for detailed guidance

We are very concerned that the essential detail included in the LAQM Technical and Policy Guidance will not be carried forward to new guidance, as recent government guidance has tended to be much shorter. While this is a useful development for high level guidance, it is counter-productive in this type of guidance, which covers a wide range of technical issues, such as how to carry out and interpret source apportionment work, monitoring and robust modelling. We would also like to take this opportunity to remind Defra that when the current Guidance was first issued for consultation the overwhelming response was that it needed to be more prescriptive rather than less.

Additional information

The consultation documents did not quantify the costs and benefits of the health impacts and other impacts on the UK economy, only the costs of administering the LAQM or other system. The costs of the administering the system is tiny compared to the costs of the impacts. These impacts include health costs to the NHS, lost work days due to ill health, soiling of buildings, impacts on agriculture and the natural environment and the risk of EU fines (which are currently being argued against using examples of air quality initiatives by UK local authorities). The best approach to LAQM cannot be identified without considering these wider governmental and societal costs.

EPUK would be pleased to be involved in post-consultation discussions with Defra to help develop an improved LAQM framework.

Yours sincerely



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