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White Paper

White Paper on a Clean Air (Wales) Bill

Making Wales a better and healthier place to live

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Action required: Responses by 7 April 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview This consultation sets out the potential provisions for a Clean Air (Wales) Bill. The proposals aim to reduce air pollution and its impacts. The proposals consist of measures which are directly implemented through primary legislation and, at the same time, establish frameworks to design and implement secondary legislation.

How to respond Please use the consultation response form at the end of the document to provide your views. You can do these through our email address or office address below.

Further information and related documents **Large print, Braille and alternative language versions of this document are available on request.**

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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Data Protection Officer:
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The contact details for the Information Commissioner's Office are:

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Ministerial Foreword

Air quality affects us all, in every aspect of our lives. Poor air quality is the greatest environmental risk to public health. It also affects our wider environment and can have significant impacts on the most vulnerable in our society. We need to equip all parts of society with the tools they need to tackle air pollution for current and future generations.

We are working with all corners of industry, business and the people of Wales to better understand and address the causes and effects of poor air quality. COVID-19 has presented a changing picture for air quality. This has supported our understanding and emphasised the need to make necessary lifestyle changes to reduce emissions and improve the air we breathe. Although we do not know the full scale of the impact COVID-19 had on air quality, many of us adapted to lower polluting lifestyles, including driving less and using methods of active travel more frequently.

Our Clean Air Plan for Wales: Healthy Air, Healthy Wales sets out a wide range of cross-Government and sector actions to improve air quality and reduce the impacts of air pollution on human health, biodiversity, the natural environment and our economy. A key action within the plan is to develop a Clean Air Act for Wales to create a fit for purpose legislative and regulatory air quality management framework.

This White Paper sets out a number of potential legislative proposals for inclusion in a Clean Air Bill. The purpose of this document is to set out the main reasons why we believe there is a need to enhance air quality legislation and how we propose to change it. It highlights how we intend to enable ambitious air quality targets, a more robust regulatory framework to support this and measures to ensure all areas of society play their part in reducing air pollution.

Your participation and input is very important as we work together to put in place an air quality management framework which delivers the best outcomes for all. We look forward to hearing your views.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs

Introduction

This White Paper on a Clean Air (Wales) Bill ('the Bill') supports our aim to improve air quality and reduce the impacts of air pollution on human health, biodiversity, the natural environment and our economy. We intend for the Bill to enable delivery on commitments identified within the Clean Air Plan for Wales: Healthy Air, Healthy Wales.

This White Paper presents proposals for the Bill before drafting legislation. The purpose of this document is to provide the context and rationale for the Bill by setting out why we need to change our existing air quality legislation and what it is intended to achieve. We have outlined our proposed legislative requirements and explained how the individual proposals will work together as a coherent legislative and regulatory air quality management framework for Wales.

This document is supported by a Regulatory Impact Assessment, which provides a summary analysis of the costs and benefits for the proposals of the Bill. More detailed assessments are underway to inform specific proposals. We intend to introduce the Bill during the next Senedd term.

Need for Change

Air pollution is the presence of contaminants in the atmosphere, such as gases and particulates, in sufficient quantity or for sufficient duration to be harmful to human, plant or animal health, or to property. These emissions can be caused by human activity or occur naturally. For example, natural emissions of particles come from the sea, soil and plants whereas man-made particles can come from burning solid fuels like coal.

The World Health Organisation (WHO) has described air pollution as the world's largest single environmental health risk¹. In addition, poor air quality can adversely affect wildlife through widespread changes to species distribution and the quality of habitats in the UK and is a threat to the Conservation Status of many habitats listed under the Habitats Directive. It also contributes to acidification of soil and surface water, eutrophication² in sensitive habitats, and damages vegetation through exposure to ozone. Further details on air pollutants and their impacts can be found at Annex 3.

Emission controls have enabled air quality improvements at a local, national and international level. However, problems persist. Air pollution carries severe social costs, through its impact on the health, and therefore the productivity, of people of working age, resulting in risks of adverse effects on economic growth.

Although our air is cleaner in general terms than at any time since the industrial revolution, exposure to the lower levels atmospheric pollution is one of the biggest public health challenges faced today, shortening lifespans and damaging the quality of life of many. Air pollution is the number one environmental cause of early death in the European Union (it is estimated to contribute to more than 400,000 early deaths/year). In Wales, the long-term mortality burden attributable to air pollution exposure is an estimated effect equivalent range of between 1,000 and 1,400 deaths. It is a cause of

¹ World Health Organisation - https://www.who.int/phe/health_topics/outdoorair/databases/en/

² "Excessive richness of nutrients in a lake or other body of water, frequently due to run-off from the land, which causes a dense growth of plant life".

both chronic and acute diseases such as asthma, cardiovascular problems and lung cancer.

Air pollution is a local, regional and international problem caused by the emission of pollutants which, either directly or through chemical reactions in the atmosphere, lead to negative impacts on human health, ecosystems and the economy. Although air quality in Wales is generally good, more needs to be done to reduce the harmful effects of air pollution in areas where it remains an issue.

The proposals in this White Paper will tackle well-known sources of air pollution. These include transport, industry (including agriculture), and emissions from homes and businesses. We will place a particular focus on protecting vulnerable individuals and sensitive habitats from the harmful effects of air pollution.

Although much of the current legislative and regulatory framework for air quality works well, there are several areas where we propose to update existing law to reflect our ambition set out in the Clean Air Plan for Wales: Healthy Air, Healthy Wales. In particular, we will ensure our legislation supports our well-being goals and sustainable development principle. We have also sought to make important connections between action required to mitigate climate change and air pollution. Further details on the current legislative and regulatory framework for air quality can be found at Annex 5.

COVID-19

COVID-19 has caused a significant disruption to our way of life. The unprecedented changes in living and working patterns during the pandemic resulted in a varying picture for air pollution in Wales at this time and potentially for the future. For example, restrictions on travel changed road transport emissions and altered locations where people are exposed to pollution.

We are working with environmental regulators, UK Government, Local Authorities, Public Health Wales and specialist consultants to develop our understanding of the impacts of the pandemic on air quality. The outcomes from this research is informing how we develop and deliver future air quality legislation.

Clean Air Plan for Wales: Healthy Air, Healthy Wales

The Clean Air Plan was published in August 2020. It sets out a 10-year pathway to achieving cleaner air. We have structured the Plan around four core themes:

- **People: Protecting the health and well-being of current and future generations**
- **Environment: Taking action to support our natural environment, ecosystems and biodiversity**
- **Prosperity: Working with industry to reduce emissions, supporting a cleaner and more prosperous Wales**
- **Place: Creating sustainable places through better planning, infrastructure and transport**



The plan timescales for delivering actions are framed across three Senedd terms: 2020 to 2021, 2021-26 and 2026-2031.

A key commitment within the Plan is to develop a Clean Air Act for Wales by building on existing legislation, with a focus on delivering air quality improvements through a new legislative and regulatory air quality management framework.

Executive Summary

Why do we need a Clean Air (Wales) Bill?

The aim of the Bill will be to give effect to a number of actions under the Clean Air Plan for Wales: Healthy Air, Healthy Wales. We are developing proposals for a Bill to enhance existing legislation and bring forward new legislation to deliver air quality improvements.

Poor air quality can adversely affect health by exacerbating underlying health issues or causing new health issues. Vulnerable groups are particularly susceptible to air pollution and we recognise there are unique issues around children's exposure to air pollutants.

Through the Bill we are seeking to deliver a healthier and more resilient Wales. Measures to set legally binding air quality targets and control emissions will drive changes in improvements to the management of air quality and the air we breathe in our communities. The proposals in the Bill have been developed to provide direct benefits for public health, habitats and biodiversity.

This document is set within the context of the sustainable development principle set out within the Well-being of Future Generations (Wales) Act 2015, which places a duty on all Public Bodies in Wales to consider how their actions might impact in the long term, and how they will alleviate problems of poverty, health inequalities and climate change.

Prosperity for All

This White Paper supports delivery of objectives related to air quality in our national strategy, Prosperity for All. These are to:

- Drive sustainable growth and combat climate change; and
- Build healthier communities and better environments.

The contribution made by the environment to good health, both mental and physical, cannot be overstated. Air and soundscape quality, good housing, access to green spaces and energy efficiency schemes each have a part to play in creating the right conditions for better health, well-being and greater physical activity.

The proposals support delivery of the specific commitment in Prosperity for All; to reduce emissions and deliver vital improvements in air quality through planning, regulation, and health communication measures.

The White Paper is the first key step in delivering the First Minister's Leadership Manifesto commitment to develop a Clean Air Act for Wales, ensuring our children can go to school, be active and play outside safely without fear of respiratory problems, such as asthma, due to air pollution. The proposals aim to reduce the burden of poor air quality on human health, our economy, biodiversity and the natural environment. The Act will also support wider actions to address the climate emergency and support the green recovery.

To secure necessary improvements in air quality, all parts of society have a role to play, through changes in behaviours at home, when travelling, at work and at leisure. The impacts and benefits fall across all sectors. The aim of the Act will be to reduce the

burden of poor air quality on human health, our economy, biodiversity and natural environment. Overall, we want to enhance both national and local government's ability to tackle poor air quality. There are two key themes in the Bill. The first theme is setting our strategic approach to enhance air quality to support a healthier Wales. The second theme is a clear and effective air quality management legislative framework. Proposals under these themes are below:

Setting our strategic approach to enhance air quality to support a healthier Wales

- A requirement for a Clean Air Plan or Strategy to be reviewed at least every 5 years; and
- Powers to set air quality targets, including for PM_{2.5}.

A clear and effective air quality management legislative framework to provide

- A clarified and enhanced Local Air Quality Management Regime (LAQM)
- Consolidated powers to implement Clean Air Zones or Low Emission Zones;
- Strengthened powers to address vehicle idling;
- The enhancement of existing powers for smoke control linked to tackling air pollution from domestic burning (PM_{2.5}); and
- A duty on inter-sectoral workforces to adhere to guidance to tackle air pollution.

The legislative proposals in this White Paper will reduce air pollution and its impacts. They set a clear purpose and direction for the way in which we are looking to implement change to deliver on these commitments. Depending on the specific pathway chosen in achieving our emission reduction ambitions by 2030 and lowering public exposure, it is estimated the cost of action, including through actions associated with proposals in this White Paper, is approximately £10m per annum. The associated reductions in overall population exposure to air pollution is estimated to result in monetised health benefits of approximately £100m per annum. Further detail is set out in the Regulatory Impact Assessment (RIA). Costing for the specific proposals in the White Paper will be developed and refined when we have final provisions for the legislation.

The proposals consist of measures which are directly implemented through primary legislation and, at the same time, establish frameworks to design and implement secondary legislation. Estimates of the likely impacts of these measures have been made where possible. In cases where the proposals seek an outcome through subsequent secondary legislation, indicative analysis of the impacts is provided where the policy development is sufficiently advanced. An analysis of the expected impacts of the secondary legislation will be carried out during the course of its development when the specific details have been finalised.

Our approach to the Clean Air (Wales) Bill

In this White Paper, we are setting out the policy intent and requirements we intend to take forward in the Bill. There are two key themes in the Bill. The first is introducing a strategic approach through a strategy or plan demonstrating our overall air quality ambition and how we will deliver this, alongside a framework for setting air quality

targets. Secondly, we are presenting a detailed legislative and regulatory air quality management system which supports delivery of our strategic approach.

Strategic Air Quality Management Approach

- a requirement for a Clean Air Plan or Strategy to be reviewed at least every 5 years; and
- Powers to set air quality targets, including for PM_{2.5}.

Legislative and regulatory air quality management systems

- Clarified and enhanced Local Air Quality Management Regime (LAQM)
- consolidated powers to implement Clean Air Zones or Low Emission Zones;
- strengthened powers to address vehicle idling;
- enhancing existing powers for smoke control linked to tackling air pollution from domestic burning (PM_{2.5}); and
- A duty on inter-sectoral workforces to adhere to guidance to empower them to tackle air pollution.

Chapter 1: Our strategic approach to improving air quality and supporting a healthier Wales.

Clean Air Plan for Wales: Healthy Air, Healthy Wales

We propose to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published, at least every 5 years.

In August 2020, we published the first Clean Air Plan for Wales. It sets out our commitment and long-term ambition to improve air quality and the steps we will take to deliver this. It also demonstrates how we will meet, and where possible exceed, requirements set out in UK and international guidance and legislation. It is essential everyone in Wales is able to enjoy the benefits of clean air. A requirement in legislation for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years will ensure we continue to tackle air pollution.

Current legislative position

The Environment Act 1995 requires the UK Government and the Devolved Administrations for Scotland and Wales to produce a national air quality strategy containing standards, objectives and measures for improving ambient air quality and to keep these policies under review. There is equivalent legislation in Northern Ireland.

The first Air Quality Strategy was adopted in 1997. This was replaced in January 2000 by the Air Quality Strategy for England, Scotland, Wales and Northern Ireland which established the framework for achieving further improvements in ambient air quality. The Strategy identified actions at local, national and international level to improve air quality. The Strategy was further updated in 2003. A full review led to an updated Strategy published in 2007.

Work in each administration to improve air quality has continued to progress. The Welsh Government recently published the Clean Air Plan for Wales, although the National Strategy itself has not been reviewed since it was last published.

Paragraph 2 of Schedule 11 to the UK Environment Bill amends the Environment Act 1995. The amendment in respect of the National Air Quality Strategy clarifies Welsh Ministers are responsible for producing and publishing an Air Quality Strategy in relation to Wales, rather than there being a requirement on the Secretary of State to do so (this is also the case in relation to the other Devolved Administrations). The other effect of the amendment is there will be a separate UK-wide Strategy, comprising Welsh, Scottish, Northern Irish and English elements. The UK Strategy must be reviewed after 12 months (from the point the provision comes into force) and every 5 years thereafter.

Currently, there is no requirement set in law for a Clean Air Plan for Wales to be reviewed and published to set timescales.

Case for change

As air quality is a devolved matter, Welsh Ministers have the responsibility for setting the strategic direction for air quality management in Wales. We published our first Clean Air Plan for Wales in August 2020.

The Clean Air Plan for Wales is a means of arranging a set of policies and ambitions for improving air quality in a systematic way to aid and facilitate delivery. The Clean Air Plan for Wales sets out the Welsh Government's plan for dealing with all sources of air pollution, making our air healthier to breathe, protecting nature and boosting the economy.

It is important for Welsh Ministers to be able to set their own timescales for both publishing and reviewing the Clean Air Plan in recognition of the specific circumstances in Wales.

We recognise the importance of reviewing, updating and amending the Clean Air Plan periodically to reflect changing and continuing issues relating to tackling air pollution, protecting human health and the wider environment.

We believe enshrining the process for publishing and reviewing a Clean Air Plan in legislation will ensure essential action is taken to tackle air pollution to achieve the best outcomes for current and future generations.

Proposed legislative change

We propose to include a provision in the Bill to publish a Clean Air Plan or Strategy within 12 months of the Act being passed. We are proposing a provision in the Bill for the Clean Air Plan to be reviewed every 5 years and updated if appropriate.

We intend for the provisions to also allow for Welsh Ministers to update and amend the Clean Air Plan as and when is necessary.

This proposal will support continued air quality improvement across Wales. This will reduce the impact of air pollution on human health, the environment, biodiversity and the wider economy.

Consultation Questions

1. Do you agree with the proposal to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years? If no, please provide details.
2. Do you agree with the proposed timescales for the review of the Clean Air Plan or Strategy? If not, please provide detail.

Air quality target setting framework

To drive the action needed to achieve cleaner air and reduce the impacts of air pollution in Wales, it is important we are able to set the right targets.

We propose to introduce an air quality target setting framework with a requirement for Welsh Ministers to set one or more air pollutant targets, including for fine particulate matter in ambient air concentrations, in secondary legislation by regulation.

The current framework for air quality policy in Wales, and across the UK, stems from domestic, European and additional international policies and legislation. Air quality issues are tackled at local, national and international scales to be most effective. Although air quality is a devolved matter, the UK government ensures national policies meet international and European guidelines and agreements. Further details are presented in Annex 3.

National improvements have been driven by European directives, including those which set limits on ambient concentrations, UK pollutant emission reductions and concentrations of pollutants from specific sources, such as cars and industry. Under separate national legislation which predated the directives, Local Authorities tackle air quality issues at a local scale through the Local Air Quality Management process.

WHO publish guidelines which aim to inform the setting of national air quality standards and to provide a basis for protecting public health from the adverse effects of air pollution. However, the guidelines are not standards as they are based solely on scientific conclusions about public health aspects of air pollution. National regulatory air quality standards also need to account for the technical feasibility and the economic, political and social implications of the achievement of these levels.

Case for change

Although we have left the EU, our existing air quality standards will continue to have effect in Wales, providing continuity and ensuring standards are maintained. There are also opportunities to be more ambitious and to go beyond these standards to reduce the harmful effects of poor air quality.

We propose to introduce an air quality target setting framework which will enable Welsh Ministers to tighten existing air quality targets and to introduce targets for newly identified pollutant risks based on evidence as it emerges in the future.

The purpose of new air quality targets is to reduce the harm caused by exposure to poor air quality on health and the environment. Alongside the framework, and as proposed in the Clean Air Plan for Wales, we propose to include the requirement to set a new target for fine particulate matter, taking account of the WHO air quality guidelines, and to take independent and expert advice on the approach to take in setting new targets. In setting new targets for air quality in Wales, we want to achieve mutually beneficial and sustained outcomes across sectors, avoiding unintended consequences.

The development of new and ambitious air quality targets is a complex process. We will ensure targets are evidence based, informed by independent and expert advice along with views of public stakeholders.

Evidence based air quality targets

Evidence on the effects of air pollutants is constantly emerging. It is important to be able to respond to new evidence. This will ensure actions taken to achieve legislative targets are effective and do not result in disproportionate or unintended consequences. Setting specific air quality targets in primary legislation would mean they are difficult to amend in the future. Therefore, we are proposing to introduce an air quality target setting framework to ensure we have the flexibility to take action when needed to deliver the most effective and sustained outcomes for our communities and environment.

In accordance with commitments made in the Clean Air Plan, we have established an independent panel of experts (the Clean Air Advisory Panel). The Panel consists of academia, national and local government policy makers (in the fields of air quality, health and the environment). The Panel provides advice and recommendations on the target setting process and specific priority air pollutant targets. For example, the Panel has determined the strongest body of evidence connecting an air pollutant with mortality and other morbidity effects involves fine particulate matter. Therefore, we have addressed this by identifying a target for fine particulate matter (PM_{2.5}) as a first priority.

We are aware of increasingly strong evidence regarding the adverse effects of nitrogen dioxide (NO₂) on health although there is still uncertainty over the independence of effects of NO₂ on health since NO₂ and primary particulate matter are closely correlated. WHO guidelines for NO₂ are broadly the same as the current statutory limits in Wales, although they are currently under review. However, many measures which reduce PM_{2.5} will also help to reduce levels of PM₁₀, NO₂ and other pollutants. Other air pollutants also continue to exert significant pressures on habitats and biodiversity.

In order to reduce the impacts of air pollution it is important we have the right set of targets and standards which stimulate effective action in areas which matter the most. Any new targets will be in addition to existing ones, including statutory ambient air quality limits and emission reduction obligations, providing a common baseline and driving more focused action where it would be most effective for the mutual benefit of public and environmental health.

WHO is currently reviewing its air quality guidelines and is likely to publish its findings at the end of 2020. We are unable to pre-empt this advice and the review with specific targets. As pollutants other than particulate matter pose risks to public health and the environment, we will work with the Panel to consider further targets for inclusion in regulation as evidence emerges. This will include the basis for future revisions to air quality guidelines published by WHO.

Implementation of the target setting framework

We propose to introduce an air quality target setting framework for Wales with a requirement for Welsh Ministers to set one or more air pollutant targets, including for fine particulate matter (PM_{2.5}) in ambient air concentrations, in secondary legislation by regulation. This will enable additional targets to be set in the future to achieve effective and long-term outcomes for current and future generations. There is a wide range of terms and concepts associated with local, national and international air quality targets, for example, standards, objectives, target values, limit values, critical loads and critical levels. References to targets within the proposed target provisions would include these terms, without limitation.

When targets have been set, we intend for the framework to introduce a cycle of measurement, assessment and reporting. This is similar to the carbon budgeting process under the Environment (Wales) Act, Part 2³.

How we intend to set targets

When **setting targets** by regulation, we propose Welsh Ministers must have regard to:

- independent and expert advice regarding the type and level of a target and the date the target can be achieved;
- existing domestic policy, guidelines, targets, and legal requirements;
- international policy, guidelines and legislation (including international advice on the health and environmental effects of air pollution, such as World Health Organisation guidelines for air quality or international biodiversity targets);
- the economic, technical and social analyses, and the feasibility of meeting targets;
- recent reporting by NRW on national air quality, including the state of natural resources in Wales; and
- most recent future trends report (Well-being of Future Generations(Wales) Act 2015).

Reporting duties

We intend for Regulations setting a target for fine particulate matter to be laid within 24 months of publishing the Act. Further targets may be introduced under the framework, over longer timescales, depending on emerging evidence. Any air quality targets set under the target setting framework must be reviewed periodically, we propose at least every 5 years. These targets will only be amended by Welsh Ministers if the independent and expert advice changes or in exceptional circumstances (e.g. when the benefits are no longer proportionate to the costs as predicted when the target was set).

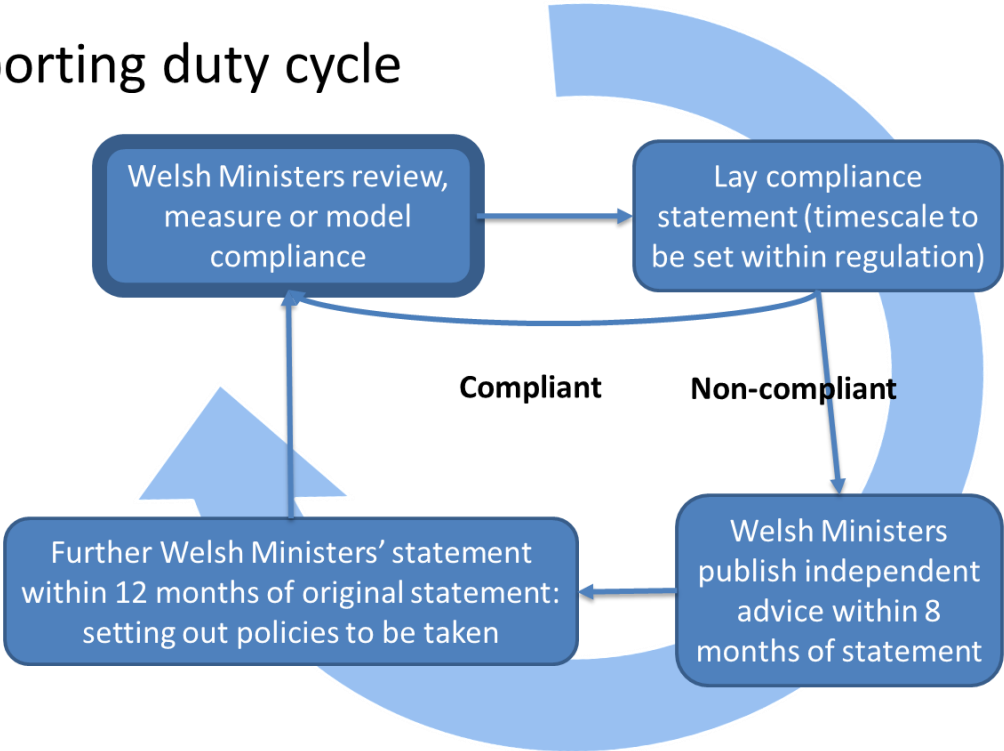
Welsh Ministers will publish a statement before the Welsh Parliament to report whether targets have been met by the date specified in the regulation (reporting timescales to be set within the regulation as they will depend on the availability of the relevant measurements and/or modelling data). If the targets are not met, within 12 months of publishing the statement, the Welsh Ministers must explain in a further statement why

³ <https://www.legislation.gov.uk/anaw/2016/3/part/2/enacted>

they have not been met and the proposals and policies the Welsh Ministers (or an appropriate authority, if authority is delegated by Welsh Ministers⁴) will take to achieve them as soon as reasonably practicable. In the case targets are not met, Welsh Ministers must also obtain independent and expert advice within 8 months of publishing the statement of non-compliance, providing views on the reasons why the targets have not been met and on any further action considered necessary to achieve them.

This proposed cycle of measurement, assessment and reporting is illustrated below.

Reporting duty cycle



Setting new targets for fine particulate matter (PM_{2.5}) in ambient air concentrations, in secondary legislation by regulation.

Further details on particulate matter and its impacts can be found at Annex 3.

Future targets for ambient levels of fine particulate matter need to be underpinned by the right evidence and metrics to achieve the most effective improvement, particularly for sensitive groups, supporting the delivery of our well-being goals. As recognised by the WHO, the standard-setting process needs to aim at achieving the lowest concentrations possible in the context of local constraints, capabilities and public health priorities. To do this, the WHO encourages the adoption of increasingly more stringent standards and tracking their effectiveness over time.

⁴ An example of Welsh Ministers delegating responsibility would be if amendments or additions to the air quality objectives defined in the Air Quality (Wales) Regulations 2000 were set for the purposes of local air quality management.

Although we comply with current legislative limits for particulate matter in Wales the annual mean WHO guideline for PM_{2.5} of 10µg/m³ is significantly more stringent (half the current limit). Currently there is no clear evidence of a threshold concentration of PM_{2.5} in ambient air below which there are no harmful effects for human health. Therefore, reductions in concentrations below the current limits and even the recommended guideline is likely to bring additional health benefits.

In assessing health effects of fine particulate matter an informative measure is the population weighted mean concentration (PWMC). The PWMC is the average outdoor PM_{2.5} concentration to which a population is exposed. The estimated PWMC for the population of Wales in 2016 was 6 µg/m³. Overall concentrations of PM_{2.5} in most of Wales are low, although there are hotspots in industrial and densely populated urban areas. In 2019, we commissioned Imperial College London to assess the current and future levels of PM_{2.5} in Wales, where PM_{2.5} comes from, and the potential for further reductions through measures which achieve a notional Welsh share of the UK's statutory emission reduction targets. The assessment also looked at the application of the emission reduction measures to explore how levels of PM_{2.5} are likely to reduce and understand what level of action will be required to achieve the WHO PM_{2.5} guideline and reduce overall exposure at lower levels too. Taking account of the imported contributions from other countries and shipping as well as Welsh emissions, traffic, non-exhaust road transport emissions, domestic and industrial emissions contribute to local peaks in urban areas. The contribution of domestic wood burning to PM_{2.5} concentrations is significant along the north coast and in urban areas, including for the large urban populations in Swansea and Cardiff.

Based on the PWMC in 2016, it has been estimated the exposure of 3.16 million people in Wales to an average concentration of 6.0 µg/m³ of fine particulate matter corresponds to a monetised health impact of £950m per year (central estimate). Depending on the specific pathway chosen to achieve Wales' share of NECD targets for 2030, the associated reductions in overall population exposure to fine particulate matter is estimated to result in monetised health benefits in Wales of between £50m - £96m per year.

The analysis indicated significant progress is likely to be made in reducing PM_{2.5} by 2030, and further enhanced by taking the most cost-effective multi-pollutant and cross sector technical measures (accounting for legislative and technical developments). Although the analysis is subject to uncertainties and considered a subset of all potential combinations of measures and the practicalities of implementation, it has helped us to understand where further action is likely to be needed. Without further analysis, however, we do not yet know whether it is possible to achieve the WHO guideline absolutely everywhere across Wales, and how and by when it could be achieved if it is possible.

New targets need to be based on sound evidence to ensure they are challenging, realistic and likely to achieve the right outcomes. The process to determine new air quality targets which are effective, proportionate and practically feasible is complex and time consuming and will require further analysis and advice as the process develops. Alongside the consideration of expert advice, it is necessary to consider health and environmental impacts, available technologies, human behaviours, socio-economic feasibility and other factors. Several critical components of the work require inputs from air pollution PM_{2.5} modelling, an area where there is long-standing scientific and

technical uncertainty. These include, but are not limited to, the representation of emissions, transboundary effects, the formation of secondary PM and their responses to emission changes. The recent unanticipated changes to both concentrations and emissions of air pollution during 2020, a consequence of COVID-19, will need to be properly accounted for in determining target feasibility. Setting a target without giving due consideration to its achievability and the measures required to achieve it could lead to actions which are neither cost effective nor proportionate.

The potential for adverse health effects from exposure to PM_{2.5} remains even if the WHO guideline value is achieved. There is further work to do to reduce air pollution and its toll on public health. Our aim is for concentrations across Wales to be below the WHO guideline for PM_{2.5} where it is possible, and lower still where there is sufficient potential and there is high public exposure or risk to sensitive receptor groups.

Setting new air quality targets in secondary legislation will enable this evidence-based process to be carried out and provides all stakeholders with an opportunity to scrutinise the details and level of ambition. Air quality and its relationship with human health, habitats and other associated factors is complex. We believe a statutory air quality target setting framework will provide the ability to set, and the flexibility to reset in time where the evidence dictates, effective evidence-based targets to achieve long-term health and environmental objectives for future generations in Wales.

Consultation questions

3. Do you agree Welsh Government should introduce a framework to set new air quality targets?
4. Do you agree with the proposed air quality target setting framework? If not, please provide evidence to support your answer, if available.

Chapter 2: A fit for purpose legislative framework

Ensuring actions are taken at a national and local level is essential to achieve our current air quality objectives and potential future targets. We are proposing to enhance the local management of air quality in Wales. In order to do this, we are proposing to develop a clear and more integrated legislative and regulatory Local Air Quality Management system.

Currently, there are separate and distinct legislative areas for Local Air Quality Management (LAQM) legislation in the Environment Act 1995, road user charging and engine-idling powers in the Transport Act 2000, and smoke control in the Clean Air Act 1993. We want a clear, concise legislative and regulatory framework which brings together all of these areas. This is to ensure air pollution from different sources is being tackled via the most appropriate legislative, regulatory and policy methods. Through a Clean Air (Wales) Act we propose to consolidate and enhance the existing legislative and policy framework for LAQM, anti-idling, Clean Air Zones or Low Emission Zones, and Smoke Control Areas. We are also proposing to introduce a duty on public bodies, including private and voluntary bodies, to adhere to guidance encouraging action on air quality and decarbonisation.

Local Air Quality Management (LAQM)

Through the Clean Air Bill we are proposing to enhance the effectiveness of Local Air Quality Management (LAQM) legislation to ensure the regime delivers air quality improvements across Wales

Through the Bill we are seeking to clarify and strengthen the wording of existing LAQM legislation. The legislative changes seek to enable preventative action by requiring proactive monitoring strategies as well as achieving, and projecting a date for, compliance as soon as possible in Air Quality Management Areas (AQMAs). We recognise Local Authorities do not hold all of the levers required to improve air quality in their areas. Through the Bill we are proposing to introduce a ‘partners’ concept which gives legislative backing to Local Authorities in developing and implementing solutions collaboratively with other organisations.

Current legislative position

Part IV of the Environment Act 1995 provides the framework for Local Air Quality Management (LAQM). The LAQM regime requires Local Authorities to work with others to assess and manage public health risks from air pollution. Using statutory⁵ and technical⁶ guidance, they must carry out regular reviews and assessments of air quality in their area against the air quality objectives and submit Annual Progress Reports (APRs) to Welsh Government. Where air quality objectives are unlikely to be met, Local

⁵ <https://gov.wales/sites/default/files/publications/2019-04/local-air-quality-management-in-wales.pdf>

⁶ <https://laqm.defra.gov.uk/technical-guidance/>

Authorities must designate Air Quality Management Areas (AQMAs) and implement Air Quality Action Plans (AQAPs) to reduce pollution levels.

Assessment of air quality is focused on locations where members of the public are regularly present and where there is exposure to the pollutant in question, over the timescale for which the air quality objective is defined. Local Authorities are legally obliged to demonstrate they are doing everything reasonably possible to work towards the legal objective values.

Welsh Government has a responsibility for managing compliance with the Environment Act 1995 and we have issued statutory guidance setting out our expectations of Local Authorities in fulfilling their duties. Welsh Government also oversees the appraisal of APRs and AQAPs to ensure they meet statutory obligations and align with the principles of the Well-being of Future Generations (Wales) Act 2015.

Welsh Ministers have a wide range of powers under the Environment Act 1995 in relation to the setting of air quality standards and objectives. Welsh Ministers confer powers on Local Authorities to help achieve the standards and objectives including the prohibition of certain pollutant emission activities, such as vehicle access restriction. Welsh Ministers can also require Local Authorities to undertake further monitoring where appropriate.

Case for change

LAQM legislation has remained unchanged since its inception in 1997. The legislative wording is ambiguous which means statutory guidance is relied upon to outline Local Authority duties. The legislation should also be updated to take account of Well-being of Future Generations (Wales) Act 2015 principles. While Welsh LAQM statutory guidance is based on these principles, we want a clear, unambiguous legislative framework which embeds the Five Ways of Working at the heart of the LAQM regime.

Additionally, while the current exposure-based approach has greatly improved our knowledge of the sources and extent of air pollution, the regime continues to operate reactively, requiring action only where a problem area has already been identified as nearing or exceeding legal limits. Therefore, improvements are required to ensure the LAQM regime is more proactive and health focused.

A more proactive LAQM regime would help Local Authorities find problem areas and take action to prevent legal limits being breached. The regime should focus on improving air quality for public health benefits and not just to achieve compliance with legal limits. This will include reducing exposure, taking action to protect those at greatest risk and striving to achieve the lowest practicable levels of pollution.

In order to achieve this we propose to update the LAQM legislative framework. We will also explore policy and funding options following a comprehensive review of the LAQM framework to complement the legislative changes proposed here.

Proposed legislative change

Firstly, we propose to transpose LAQM legislation into our Clean Air (Wales) Bill and strengthen the wording to provide greater clarity and detail in relation to specific organisational duties. The purpose of this legislative proposal is to set out a clear, concise legal framework which avoids ambiguity and clarifies existing duties. This will include clarification of Local Authority duties regarding monitoring and assessment. The legislation will include a requirement for Local Authorities to undertake regular reviews of their monitoring and assessment strategy. The purpose of frequent monitoring strategy reviews is to ensure the regime is proactive and preventing people from being regularly exposed to high levels of pollution.

It is envisaged these reviews will take place annually and will be carried out as part of the APR process. This will enable evidence or concerns brought to the Local Authority by the community, or through planning processes, to be addressed and, where appropriate, incorporated into the monitoring strategy. To underpin this, we will develop LAQM policy changes to assist Local Authorities in accounting for wider health determinants and risks in their monitoring and assessment strategy, to better protect public health.

To strengthen wording regarding AQMA processes, we will include a clear requirement for Local Authorities to provide a projected compliance date for all AQMAs, following production and appraisal of an AQAP. The compliance date will be agreed with Welsh Ministers. This will provide a clear focus to drive forward effective and timely action to lower pollution levels below statutory limits and, consequently, support the revocation of AQMAs.

To support this, existing legislation regarding AQAPs will be clarified to ensure they set out actions and associated timescales to secure the achievement and long-term maintenance of air quality standards and objectives. Additionally, we will add the requirement for a Local Authority to undertake a review of an action plan at least once every five years to the timescales currently set out in statutory guidance.

Secondly, we propose to introduce the concept of 'partners' to improve collaboration and provide support to Local Authorities. The responsibility for local air quality management sits with Local Authorities, however, they may not hold all the levers necessary to deliver improvements to air quality for their area. Additionally, effective actions identified in an AQAP may require support from, or delivery by, other organisations. Therefore, it would be useful for local organisations, whether public or private, to engage with Local Authorities in this process.

This legislative proposal seeks to support Local Authorities in their efforts to collaborate with local 'partners' to develop, implement and review actions to improve local air quality. Our ambition is to widen the range of parties which play a role in improving local air quality and so it is envisaged a 'partner' can be any organisation the Local Authority deems to be relevant, following assessment of air quality issues in the area. This can include Welsh Government, neighbouring Local Authorities, health boards and other organisations. The legislation will clearly state an organisation designated as a 'partner' cannot reasonably refuse to engage with the Local Authority in developing effective action to improve air quality, unless they can justify this with suitable evidence.

The range of helpful actions organisations could undertake in support of the Local Authority is very broad. Examples might include developers working with Local Authority air quality teams at an earlier stage in the planning process, a local office reducing parking spots or a local business adjusting delivery times to avoid peak hours. The way in which an organisation assists the Local Authorities would depend on the specific local circumstances. This mechanism would be particularly useful for developing actions for an AQMA but is also useful more generally as Local Authorities seek to improve air quality in their area.

Delivery of these legislative proposals will ensure an LAQM regime proactively seeking out and addressing air quality problems in the soonest possible time. This will more effectively protect public health than the current regime, which only reacts to problems once legal limits have been breached. Additionally, improved collaboration between local organisations will ensure improvements are delivered more quickly, more effectively and in line with principles set out in the Well-being of Future Generations (Wales) Act 2015. This collaborative effort will support the development of healthy and active villages, towns and cities. This will benefit local individuals, businesses and organisations and support our tourism industry by delivering attractive and safe places to visit.

Consultation questions

5. Do you agree there is a need to clarify and strengthen the legislation? If so, do you agree with the approach outlined?
6. Do you think a mutually agreed compliance date on a case by case basis will help to achieve air quality improvements in AQMAs, in the soonest possible time? Please provide detail.
7. How can we ensure the 'partners' concept improves and supports collaboration in improving air quality?
8. Will these proposals collectively help to deliver a more proactive LAQM regime?

Consolidated road user charging scheme powers

We propose to create dedicated charging scheme powers for trunk roads within the Bill and widen the current restriction on the use of net proceeds for local transport policies. We also intend to commence existing powers in relation to charging schemes made by Local Authorities.

Consolidated powers are needed to enable the efficient introduction of Low Emission Zones (or Clean Air Zones) and other forms of road user charging schemes, where there is a case to establish them to support air quality improvements. A Low Emission Zone may be described as:

An area where targeted action is taken to improve air quality, in particular by discouraging the most polluting vehicles.

To discourage the most polluting vehicles a charge may be applied on designated roads under certain circumstances such as where stipulated emissions standards for particular vehicle categories are not met. An emissions-based charge may vary across the range of vehicle categories.

It is important highway authorities are able to efficiently introduce a charging scheme on local (Local Authorities) and trunk roads (Welsh Government). The proposed legislative provisions would ensure Welsh Government and Local Authorities have clear powers to introduce a charging scheme on roads for which they are the relevant authority.

In late 2016, UK Government consulted on their draft Clean Air Zone Framework which was subsequently published in May 2017, and updated in February 2020.⁷ The Framework sets out the principles Local Authorities should follow when establishing Clean Air Zones in England. Welsh Government consulted on its own Framework in 2018.⁸

In 2017, UK Government published the UK plan for tackling roadside nitrogen dioxide concentrations.⁹ In this plan, UK Government identified charging Clean Air Zones as the measure it is able to model nationally which will achieve statutory nitrogen dioxide (NO₂) limit values in towns and cities in the shortest possible time. The Welsh Government supplemental plan to the UK plan for tackling roadside nitrogen dioxide concentrations 2017 sets out the actions taken to achieve compliance in Wales.¹⁰

Clean Air Zones have been confirmed as the preferred measure to achieve compliance with limit values in several towns/cities in England. The first of these is scheduled to be launched in 2021.

Whilst there are currently no specific plans to introduce similar charging schemes in any part of Wales, Clean Air Zones remain 'precautionary retained measures' for two

⁷ <https://www.gov.uk/government/publications/air-quality-clean-air-zone-framework-for-england>

⁸ <https://gov.wales/clean-air-zone-framework-wales>

⁹ <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>

¹⁰ <https://gov.wales/air-quality-plan>

locations on the trunk road network in Wales (Newport and Pontypridd) meaning they could be introduced in the future should existing measures fail to deliver sustained compliance.

The South East Wales Transport Commission has been considering the problems, opportunities, challenges and objectives for tackling congestion on the M4 in South East Wales following the decision to not proceed with the M4 relief road around Newport. The study has been considering social, economic, cultural and environmental issues, including air quality. The Commission published their Final Recommendations in November 2020.¹¹

In 2020, the Minister for Economy, Transport & North Wales commissioned an independent review into the benefits and challenges of different demand management approaches such as road user charging. This review¹², which was published in November at the same time as the consultation on the new Transport Strategy¹³, sets out a range of matters which should be considered when determining an approach to road user charging schemes.

The new Transport Strategy for Wales envisions a transport system which is good for people and communities, contributing to a more equal and healthier Wales. Also, a transport system which is good for the environment, contributing to a more resilient and globally responsible Wales.

The Strategy focuses on a travel hierarchy which firmly places travel by private motor car at the bottom of the list. More people will be encouraged to walk and cycle for shorter journeys, and use public transport where necessary. Disincentivising the use of cars is an important element of this strategy. Our Clean Air Plan for Wales reflects this, setting out our expectation to see *“Clean Air Zones established in towns and cities throughout Wales to reduce the impact of transport emissions on health. Some of these may be supported by a charging element”*.

Also reflected in the Transport Strategy is the need for a regional approach to transport planning and delivery of services, Corporate Joint Committees (CJCs) will be empowered to plan for services at a regional level and shape local initiatives.

Current legislative provision

Charging scheme powers are currently set out within the Transport Act 2000 (Part III). This provides for schemes to be made by order of local (traffic) authorities (“a local charging scheme”) or by the Senedd Cymru (“a trunk road charging scheme”). A charging scheme is defined as; “a scheme for imposing charges in respect of the use or keeping of motor vehicles on roads.”

A local scheme may only be made for the purpose of facilitating the achievement of local transport policies. Schemes must be approved by Welsh Ministers.

¹¹ <https://gov.wales/south-east-wales-transport-commission-final-recommendations>

¹² <https://gov.wales/independent-review-road-user-charging-wales>

¹³ <https://gov.wales/llwybr-newydd>

Schedule 12 sets out the proceeds raised through a charging scheme are to be used for the purpose of facilitating the achievement of local transport policies of the authority.

Section 275 sets out the charging provisions may come into force by order of Welsh Ministers, through a statutory instrument. These provisions have not, as yet, been fully commenced in Wales.

Case for change

The Bill provides an opportunity to bring provisions together in one place, ensure full commencement of powers, and provide for a much clearer process.

Road user charging has increasingly been considered as a mechanism to disincentivise private vehicle travel, and encourage a shift to active travel and public transport alternatives. The Independent Review of Road User Charging in Wales found road user charging; “can be an excellent tool to help the Welsh Government and Welsh Local Authorities deliver a more equitable, efficient and sustainable transport system...[helping] Government achieve wider economic, societal, cultural and environmental priorities such as improving air quality, sustainability and benefiting ‘placemaking’ and health.” It is important we have a legislative framework in place to meet our future needs in this area.

Consolidating existing legislation, in relation to trunk road charging, within the Bill, would enable a more tailored and clearer framework to be established. This will ensure, where there is a case to introduce a charging scheme such as a Low Emission Zone, the legislative route to achieve this would be clear. This would increase efficiency and reduce bureaucratic burdens, ensuring time is minimised in the process. This would also provide opportunity to ensure provisions meet the current needs of Wales, reflecting, for instance, the direction being taken with our new Transport Strategy.

Proposed legislative change

In our Clean Air Plan we have outlined we “will consolidate and enhance the existing legislative and policy framework for air quality, including Local Air Quality management, **Clean Air Zones**, and smoke control, through a Clean Air Act for Wales”. Further, the Act “is likely to include consolidated powers to implement Clean Air Zones or Low Emission Zones”.¹⁴

To meet this commitment, and to ensure powers are readily available in Wales to introduce Low Emission Zones on local roads, and on trunk roads, the following action is required:

1. Commencement of relevant provisions under the Transport Act 2000 to enable Local Authorities (either by themselves, or in a regional partnership with neighbouring Local Authorities) to fully implement charging schemes.
2. Creation of a new standalone charging regime for trunk roads through the Clean Air Act and the creation of a regulation-making power.

¹⁴ <https://gov.wales/clean-air-plan-wales-healthy-air-healthy-wales>

3. Broaden the current limitation on net proceeds from road charging on trunk roads to be invested in local transport schemes only.

Charging schemes such as Low Emission Zones are applied in areas where there are established air quality concerns. This approach can support significant reductions in polluting vehicle emissions with consequent reductions in public exposure to polluted air. With a carefully defined fee structure, and fines for non-compliance, drivers of the most polluting (non-compliant) vehicles may be encouraged to take alternative routes to avoid charges, thereby alleviating impacts on the most polluted areas. Other changes in habit can include a switch to active travel or public transport use, or potentially an upgrade to a less polluting (compliant) vehicle.

This can improve the quality of life for those living in, or visiting, the designated area and reduce impacts on health conditions arising from poor air, reducing pressure on local health services. There are further health benefits arising through increasing the numbers of people using active travel alternatives.

Consultation questions

9. Do you think the proposals would support the efficient and effective roll-out of Clean Air Zones / Low Emission Zones in Wales?
10. Do you believe revenue raised through trunk road charges should be available for purposes other than to support local transport policies (please specify)?

Anti-Idling Measures

We are proposing to strengthen the existing legislative framework governing anti-idling through the provision of anti-idling guidance and the power for Local Authorities to increase amounts of fixed penalty for idling.

Through the Bill we are seeking to empower Local Authorities by enabling them to use increase the amounts of Fixed Penalty for idling. We are also seeking to place a duty on Local Authorities to pay due regard to guidance on developing and implementing anti-idling measures, including the enforcement of anti-idling.

Current legislative position

The current legislative framework governing idling vehicles is set out in the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003.¹⁵

The regulations were made under section 87 of the Environment Act 1995 and came into force on 1 May 2003. Both Scotland and England have their own corresponding regulations.

¹⁵ <https://www.legislation.gov.uk/wsi/2003/300/contents/made>

Section 3 sets out where any part of the area of a Local Authority is designated as an Air Quality Management Area (AQMA), the Local Authority may apply to the Welsh Government to be a designated Local Authority.

Under section 6, a Local Authority may authorise its officers (provided they have passed a course of training on testing emissions from vehicles) to test vehicles for the purpose of determining whether an emissions offence is being or has been committed; to stop the commission of idling offences and to issue Fixed Penalty Notices if such offences are committed in its area.

Under section 7, emission offences and idling offences under section 42 of the Road Traffic Act 1988 are prescribed as fixed penalty offences.

Under section 8, an emissions offence carries a Fixed Penalty Notice of £60 while an idling offence carries a Fixed Penalty Notice of £20. Section 17 sets out if the Fixed Penalty Notices are not paid by the specified time, the amount of penalty can be increased. The penalty for an emissions offence can increase to £90 and the penalty for an idling offence can increase to £40.

Under section 9, an authorised officer may carry out an emissions test immediately or, by way of deferral, require the test to be carried out at a later time but no later than 14 days later at a specified time and place.

Under section 12, should a driver fail to stop the engine when requested to do so by an authorised officer, the driver is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The person to whom a Fixed Penalty Notice has been issued may request a hearing. Also, a person issued with a Fixed Penalty Notice can apply to an appropriate authority for a reduction or a waiver and obtain either one subject to meeting certain specified conditions.

A court order can be issued to recover unpaid Fixed Penalty Notices as these are covered by the Enforcement of Road Traffic Debts Order 1993.

In addition, a Penalty Charge Notice (PCN) could be issued in contravention of a Traffic Management Order under the Road Traffic Regulation Act 1984 – this means engine idling is considered to be a road traffic contravention and is subject to civil enforcement. The PCN allows for charges of up to £80 – they are issued if an idling motorist does not turn off the engine after being asked and given time to comply. Legally, there is no time period specified in respect of the length of time for complying with the request to stop idling.

The current legal framework also extends to section 42 of the Road Traffic Act 1988. The Act enforces rule 123 of the Highway Code which states: “You must not leave a vehicle engine running unnecessarily while the vehicle is stationary on a public road”. Section 98 of the Road Vehicles (Construction and Use) Regulations 1986/1078 requires a driver to stop the engine of a vehicle when it is stationary so far as is necessary to prevent noise or exhaust emissions unless the vehicle is stationary because of traffic.

Under section 42 of the Road Traffic Act 1988, such offences can be punished by a fine of £2,500 if the vehicle is a goods vehicle or adapted to carry more than 8 passengers or £1,000 otherwise (section 33 and Part 1 of Schedule 2 to the Road Traffic Act 1988). This Act does not cover private land.

Regulation 98(2) of the Road Vehicles (Construction and Use) Regulations 1986 as amended sets out the circumstances where vehicles are permitted to be stationary with the engine running – for example:

- Where a vehicle is stationary owing to the necessities of traffic (when queuing, for example, at traffic lights)
- Where an engine is run so that a fault can be traced and rectified
- Where machinery on a vehicle requires the engine to be running (for the powering of refrigeration, for example, or compaction equipment on a refuse vehicle)

Case for change

Road transport is a major source of air and noise pollution due to the growth in recent decades of road transport, including the uptake of diesel vehicles (which tend to emit harmful pollutants such as nitrogen oxides and particulate matter). Even though the response to the COVID-19 pandemic has seen a reduction in road transport emissions, air quality is sensitive to a number of factors including weather and seasonal effects.

There has been much academic and governmental interest over recent years in relation to the adoption and use of anti-idling measures as a management tool for contributing to the reduction of emissions and exposure.

We conducted a consultation on the Clean Air Plan between December 2019 and March 2020. The consultation responses revealed a level of public concern about idling vehicles, including the potential impact on public health.

Furthermore, during June 2020, the Welsh Government carried out a preliminary consultation with Local Authorities on proposals for the Clean Air Bill for Wales, including on anti-idling. Some Local Authorities supported the imposition of higher penalties for idling on the basis the current level of penalty is too low to make enforcement worthwhile. There were some Local Authorities who expressed concern about sustained, concentrated idling for periods of time in major transport hubs in towns/cities or in idling hotspots seeing spikes in air pollution. A theme of the consultation responses was the concern over the potential impact of idling vehicles outside schools on children's health.

The desired outcome is for Local Authorities to have the opportunity to exercise their discretion in terms of choosing whether or not to exercise the power to introduce higher penalties for idling. Local Authorities may choose to adopt this power under certain circumstances. For instance where there are regular occurrences of concentrated and sustained idling. This issue is particularly prominent in older vehicles which have less effective after treatment systems (where diesel exhaust emitted by the engine isn't cleaned as well as in more modern vehicles prior to being relayed through the tailpipe to the air outside). Local Authorities may wish to concentrate on occurrences, such as

idling outside schools by older school transport service buses (especially as concern for children's health is a common theme in relation to the impacts of idling); idling by older buses in city/town centre transport hubs (bus stations); idling by older taxis (for example, outside train stations); idling by older, private motor cars outside schools; idling by older, private motor cars outside shopping centres or level crossings.

We want to provide Local Authorities with a strengthened framework to tackle idling vehicles.

Proposed legislative change

We propose to include the following provisions within the proposed Bill to:

- impose a duty on Local Authorities to pay due regard to guidance on developing and implementing anti-idling measures, including the enforcement of anti-idling; and
- empower Local Authorities to increase the amounts of fixed penalty for idling (to increase the deterrent effect).

The provision of a strengthened framework of powers to enable Local Authorities to tackle idling would contribute to achieving progress in relation to creating sustainable places with more environmentally-friendly transport to support improved air quality and soundscapes.

The creation of sustainable places directly contributes to the achievement of the well-being goals under The Well-being of Future Generations (Wales) Act 2015, such as the goal of a healthier Wales. The application of anti-idling measures supported by a strengthened framework of powers will contribute to reducing emissions. Poor air quality can have a disproportionate impact on the health and well-being of children, older people and other vulnerable people. Contributing to the reduction of air pollution will have a direct and significant impact on improving human health.

Anti-idling measures can be most effective if included in a package of different but complementary measures, all with the purpose of preventing or reducing air pollution. In this context, there can be potential for achieving cumulative reductions in emissions, over time, across a range of different measures applied in tandem.

Consultation questions

11. Do you agree with the proposals relating to tackling engine idling?
12. What do you think are the advantages/disadvantages of the proposals?
13. Can you suggest any additional approaches to tackle engine idling?
14. Do you have any evidence to present on the links between emissions and exposure in respect of idling?

Tackling air pollution from domestic burning

Domestic burning (sometimes referred to as domestic combustion) is an umbrella term for residential heating (such as boilers or fireplaces), indoor and outdoor cooking, and the burning of household and garden waste.

The focus of the legislative proposals described below are on the indoor burning of solid fuels (traditional house coal and wet wood).

We aim to reduce and, in time, eradicate all emissions from domestic burning of solid fuels. According to the National Atmospheric Emissions Inventory, emissions from the residential sector fell from 1990 to 2002. This mirrored the decline in the use of coal for heating purposes. However, emissions from the residential sector are now back at 1990 levels. This increase is attributable in part to the increased use of wood as a source of heating for homes. It is not certain what the precise contribution of domestic burning is to overall air pollution, but domestic burning is said to be the largest contributing source of the UK's level of PM_{2.5}.

We acknowledge some people may rely on solid fuels as the main means of heating their homes. This is why, in the short term, we want to implement measures to drastically reduce emissions without introducing a blanket ban. However, in the majority of households, stoves or log burners complement other forms of heating (oil, gas or electricity) or are used purely for leisure purposes.

Measures to reduce PM_{2.5} also have potential to reduce levels of PM₁₀, carbon monoxide, sulphur dioxide, volatile organic compounds, benzo(a)pyrene and other dioxins.

We established a Task and Finish Group in 2018 (comprising industry, fuel suppliers, Public Health Wales, Healthy Air Cymru, Local Authorities, HETAS and other organisations) to examine all available evidence to develop appropriate interventions.

Alongside this White Paper consultation, we are consulting on how we will tackle emissions from domestic burning. This will include consideration of:

- prohibiting the sale of wet wood and traditional/bituminous house coal.
- regulatory powers to ensure only the most efficient appliances are available for purchase and installation by 2022. This will include installation of second-hand appliances.
- regulatory powers to require the annual maintenance of domestic burning appliances by a certified professional, subject to review.
- establishing test standards for new manufactured solid fuels entering the market by 2024 to ensure they are compliant with appropriate regulations on smoke and sulphur emissions.
- options to support households to ensure no-one slips into or remains in fuel poverty as a result of any prohibition on fuels or appliances, or an extension to the use of SCAs.

Revisions to Smoke Control legislation

The Clean Air (Wales) Bill sets out a proposal to amend the regime for Smoke Control to ease the enforcement burden on Local Authorities. In addition, we are seeking views on whether to mandate use of Smoke Control Orders in defined population areas and extension of the legislation to include outdoor burning.

Within a Smoke Control Area it is an offence to emit smoke from a chimney of a building (including domestic, residential or industrial premises) unless a fuel has been authorised for use or an appliance has been exempted for use in a Smoke Control Area. Smoke control legislation is currently consolidated in the Clean Air Act 1993.

Part 3 of the Clean Air Act 1993 covers the law on Smoke Control Orders and their designation. Section 19 allows for the possibility of the Welsh Ministers expanding Smoke Control areas by directing Local Authorities to expand them to their whole area. The Act aims to control emissions of dark smoke, grit, dust and fumes from a variety of sources, including industrial premises, furnaces etc.

Currently, Welsh Ministers have the power to make subordinate legislation to authorise the use of certain fuels in a Smoke Control Area (under section 20(6) of the Act) and to exempt certain appliances for use (under section 21(5)). Manufacturers submit their products for testing by technical advisers who subsequently recommend the products that can be placed on the market.

There is a Wales-only provision within the UK Environment Bill which places a duty on Welsh Ministers to publish lists recording authorised fuels and exempted classes of fireplace. Once enacted, the Welsh Ministers' power to make subordinate legislation in respect of authorised fuels and exempted classes of fireplace will be repealed. Adopting published lists will bring Wales into line with England and Scotland.

This change will benefit businesses as the margin for error when recording fuels and appliances will be reduced; there will be less delay between testing the product and putting it on the market; and consumers will benefit as more products will enter the market sooner thereby increasing choice.

Smoke control is currently limited to appliances installed indoors, such as log burners and stoves. No consideration is currently given to the impact on air quality of appliances which burn solid fuels outdoors (barbecues, pizza ovens etc.) or of the impact of the fuels which are used outdoors.

While the Clean Air Act 1993, Parts 1 and 2 address emissions of smoke, grit and dust, including from industrial and trade premises and furnaces. There are currently no proposals to consolidate this legislation into the Bill. Other existing (permitting) legislation addresses commercial/industrial combustion and we will continue to explore with Defra whether further amendments are required to the legislation. Statutory nuisance legislation under the Environmental Protection Act 1990 tackles incidents of smoke, fumes, gases, dust and odour emitted from premises. The legislation does not specifically address outdoor burning appliances.

Where a Local Authority declares a Smoke Control Area, the emission of smoke from a chimney becomes an offence. However, prosecution is difficult as it is costly and time-consuming, and defences can be used (such as the use of an authorised fuel/exempted class of fireplace). With no power of entry for Local Authorities, enforcement becomes challenging.

Current work on Smoke Control in relation to the Bill

We have issued a series of questions for Local Authorities in Wales to gather information and evidence in relation to this issue. In response, Local Authorities identified there was no requirement to review the need for a Smoke Control Order, and those Local Authorities which have such orders in place have found it difficult to enforce.

Proposals for inclusion in the Bill

- Include Smoke Control legislation, consolidating legislation from the Clean Air Act 1993, Part 3. Also changing the offence regime from criminal to civil.
- Mandate the application of Smoke Control Orders in all urban areas which meet specific criteria, to be defined in the Bill.
- Include a requirement for Local Authorities to review Smoke Control Areas on a regular basis, in terms of instituting or rescinding a Smoke Control Order.
- Include outdoor combustion within Smoke Control Areas, to include bonfires.
- Introduce an online list of authorised fuels for use in outdoor appliances.

During the COVID-19 crisis, a number of complaints were received by Local Authorities, Welsh Government and Welsh Ministers, regarding the health impacts of burning garden waste. There is clearly an issue, but presently Local Authorities have no powers to ban bonfires. Extension of Smoke Control legislation to outdoor burning would allow for inclusion of bonfires, and their more effective control.

Extension of Smoke Control coverage, and linking it to population density or other criteria would be a significant tool in reducing the impact of air pollution produced by domestic burning.

Enforcement would remain through Local Authority action, by civil proceedings. This lowers the burden of proof and will make remedial action more straightforward. A similar approach is being adopted for England under the UK Environment (Principles and Governance) Bill.

Consultation Questions

15. Do you agree with the proposal to transpose Part 3 of the Clean Air Act 1993 (Smoke Control) into Welsh legislation?

16. Are there any other aspects of the Clean Air Act 1993 which you would consider appropriate for inclusion within Welsh legislation?
17. Do you agree changing the enforcement regime from criminal to civil action will assist in improving enforcement?
18. Would you agree in light of the evidence there should be a presumption in favour of Smoke Control, at a minimum in urban areas?

Empowering workforces to tackle air pollution

We intend to produce cross sector guidance to empower workforces across Wales to tackle air pollution. It is expected this guidance will deliver air quality, health and decarbonisation benefits simultaneously.

Through the Bill we are seeking to produce new guidance to empower workforces to tackle air pollution. We are consulting on whether to have the guidance on a statutory footing, which would place a duty on public, private and voluntary bodies to report progress (every 6 months) and to be accountable for their responsibilities.

In April 2018, the Welsh Government and Public Health Wales published 'Advice for NHS Wales staff - Working together to reduce outdoor air pollution, risks and inequalities'.¹⁶

This guidance complements existing air quality responsibilities and uses four principles to influence, communicate and champion air quality improvement within and beyond the NHS:

- supporting others to assess and appropriately prioritise air pollution in local areas;
- engaging senior local decision-makers to take local action on air pollution;
- communicating with the public (including patients) about local air pollution; and
- championing air quality improvement both outside and inside their organisations.

This guidance is non-statutory and very few of the actions suggested are unique to the NHS. The majority are equally relevant to other public and private bodies, including voluntary organisations.

The Welsh Government proposes to extend and maximise the reach and impact of the health guidance so it applies to other parts of the public sector, including the private and voluntary sectors. In addition, the Welsh Government proposes to place the enhanced guidance on a statutory footing.

¹⁶ <https://gov.wales/sites/default/files/publications/2019-06/working-together-to-reduce-outdoor-air-pollution-risks-and-inequalities.pdf>

Case for change

The intended effect of the proposal is to achieve a society in which improving air quality becomes everyone's business. Improving air quality benefits everyone from workers in the workplace who work in healthier, safer workplaces to communities more widely. The guidance can empower workforces to tackle air pollution in a variety of different ways.

Air pollution has various sources. Everyone is affected by air pollution and it is essential to take action on a cross-sector basis across Wales to improve air quality. It is important to acknowledge local action is required on a pan-Wales basis. Wales-wide data can conceal localised problems which emerge from significant small-area concentrations leading to increased exposure and consequent health impacts. Tackling air pollution is everyone's business and it is vital to have workforces engaged in tackling air pollution on a cross-sectoral basis spanning the public, private and voluntary sectors. In this regard, leadership can be provided by employers and employees.

Proposed legislative change

The proposals are:

- to include a provision in the Bill placing the guidance on a statutory footing so it applies to the public sector (NHS Wales; Natural Resources Wales; Local Authorities), including the private and voluntary sectors
- to make it a statutory duty for stakeholders from the public, private and voluntary sectors to report on progress (every 6 months) and to be accountable for their actions/responsibilities to the Welsh Government (The Air Quality in Wales website could be used as a reporting mechanism for the public, private and voluntary sectors).

The aim of the guidance would be to promote and enhance awareness of the sources of air pollution and provide advice on how to tackle them. The sources of air pollution are:

- mobile (cars, engine idling, trucks etc.)
- stationary (power plants, oil refineries, industrial facilities and factories)
- area sources (including agricultural areas or wood burning fireplaces)

A major source of outdoor air pollution is road transport and workforces can play a part in moving away from the use of the private motor vehicle and adopting active travel or using public transport. There is also a role for workforces to play in reducing indoor air pollution (especially in respect of chemicals and fireplaces).

The aim is to link improvement in air quality to decarbonisation by reducing emissions from agriculture; buildings; industry; the fluorinated gases sector; the power sector; waste; and transport.

Representatives from all sectors could work with employers and employees to promote behaviour change within the workplace (for example, encouraging active travel with incentives for its uptake or promoting the use of cleaner organisational vehicles). They could also engage with local decision-makers on such matters as the creation of green spaces or green infrastructure; or using spatial planning policy to build high-density

buildings close to transport hubs. Applying the guidance on an inter-sectoral basis has the potential to encourage collaboration on improving air quality linked to decarbonisation between different sectors.

Empowering workforces to tackle air pollution linked to decarbonisation feeds into the well-being goals under the Well-being of Future Generations (Wales) Act 2015, such as a globally responsible Wales (which contributes to global well-being through environmental protection); a healthier Wales (where people's health is maximised and people have the opportunity to make choices which benefit future health); and a prosperous Wales (where improved health reduces social costs and benefits the economy through better productivity amongst the working population).

In these ways, the guidance is linked to tackling the climate emergency and promoting our green recovery.

Consultation Questions

19. Do you agree with the proposals?
20. What are the advantages/disadvantages of the proposals?
21. In what other ways or by whom could the guidance be delivered? Please provide detail.
22. What would be best way(s) for stakeholders to report progress to the Welsh Government?
23. Do you have any additional points to make?

Annex 1 - Timetable of legislation

These are the estimated timelines for delivery of the Clean Air Bill, Act and regulation. These dates may be subject to change.

Description	Expected dates
White Paper consultation	January – March 2021
Consultation Analysis	April- May 2021
Evidence gathering	June – December 2021
Bill drafting commencement	April 2022
Bill laid	To be confirmed
Act royal assent	To be confirmed
Regulation set	No later than 24 months following the Bill

Annex 2 - Consultation questions

1. Do you agree with the proposal to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years? If not, please provide details
2. Do you agree with the proposed timescales for the review of the Clean Air Plan or Strategy? If not, please provide detail.
3. Do you agree Welsh Government should introduce a framework to set new air quality targets?
4. Do you agree with the proposed air quality target setting framework? If not, please provide evidence to support your answer, if available
5. Do you agree there is a need to clarify and strengthen legislation? If so, do you agree with the approach outlined?
6. Do you think a mutually agreed compliance date on a case by case basis will help to achieve air quality improvements in AQMAs, in the soonest possible time? Please provide detail.
7. How can we ensure the 'partners' concept improves and supports collaboration in improving air quality?
8. Will these proposals collectively help to deliver a more proactive and prevention focused LAQM regime?
9. Do you think the proposals would support the efficient and effective roll-out of Clean Air Zones / Low Emission Zones in Wales?
10. Do you believe revenue raised through trunk road charges should be available for purposes other than to support local transport policies (please specify)?
11. Do you agree with the proposals relating to tackling engine idling?
12. What do you think are the advantages/disadvantages of the proposals?
13. Can you suggest any additional approaches to tackle engine idling?
14. Do you have any evidence to present on the links between emissions and exposure in respect of idling?
15. Do you agree with the proposal to transpose Part 3 of the Clean Air Act 1993 (Smoke Control) into Welsh legislation?
16. Are there any other aspects of the Clean Air Act which you would consider appropriate for inclusion within Welsh legislation?
17. Do you agree changing the enforcement regime from criminal to civil action will assist in improving enforcement?
18. Would you agree in light of the evidence there should be a presumption in favour of Smoke Control, at a minimum in urban areas?
19. Do you agree with the proposals?
20. What are the advantages/disadvantages of the proposals?
21. In what other ways or by whom could the guidance be delivered? Please provide detail.
22. What would be best way(s) for stakeholders to report progress to the Welsh Government?
23. Do you have any additional points to make?
24. We would like to know your views on the effects these provisions would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.
25. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?
26. Please also explain how you believe the proposed provisions could be formulated or changed to have positive or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Annex 3 – Air Pollutants

Particulate matter	
<p>Particulate matter (PM) is the term for a mixture of solid particles and liquid droplets found in the air. PM can be emitted directly from a source (primary PM), or form in the atmosphere through chemical reactions between pollutant gases (secondary PM).</p> <p>PM is classified by size, for example PM₁₀ (inhalable particles ≤10µm¹⁷ diameter) and PM_{2.5} (inhalable, finer particles ≤2.5µm diameter). PM is not a single pollutant, it can consist of a variety of chemicals. Both PM and the gases which form it can travel large distances, with impacts occurring far from the original source. Concentrations of PM are a particular concern because of established links with health impacts, although the mechanisms and the relative toxicity of different components of PM are not yet clearly understood.</p>	
<p>Sources include:</p> <ul style="list-style-type: none"> • Domestic burning • Road transport (exhaust emissions and tyre and brake wear) • Power stations • Industrial processes • Natural sources include wind-blown dust, sea salt, pollens and soil particles. <p>Secondary PM is formed from precursor gases such as nitrogen oxides, ammonia (including from agricultural emissions) and sulphur dioxide.</p>	<p>Effects on health:</p> <ul style="list-style-type: none"> • Fine particles can travel deep into the lungs • Links with a range of effects, including respiratory and cardiovascular illness and mortality • No threshold has been identified below which no adverse health effects occur <p>Effects on the environment:</p> <ul style="list-style-type: none"> • Emissions of black carbon (soot) from incomplete combustion are associated with effects on climate change
Nitrogen oxides	
<p>Nitrogen Oxides (NO_x) comprises nitric oxide (NO) and nitrogen dioxide (NO₂). It is a precursor pollutant for ground level O₃.</p> <p>Emissions of NO_x are a mixture of NO and NO₂; but chemistry in the atmosphere increases the proportion as NO₂.</p>	
<p>Sources include:</p> <ul style="list-style-type: none"> • Combustion e.g. sources include power generation, industrial combustion and road transport • Transport is now the largest source of NO_x in Wales, predominantly due to emissions from road transport, accounting for approximately one third of emissions 	<p>Effects on health:</p> <ul style="list-style-type: none"> • Short-term exposure to NO₂ can cause inflammation of the airways • NO₂ can also increase susceptibility to respiratory infections and to allergens • Difficult to identify the direct health effects of NO₂ because it is emitted from the same sources as other pollutants such as particulate matter (PM). Long-term exposure to NO₂ is

¹⁷ µm is the symbol for micrometre which is one millionth of a metre (10⁻⁶m)

	<p>associated with mortality and morbidity</p> <p>Effects on the environment:</p> <ul style="list-style-type: none"> Nitrogen-sensitive habitats can receive higher levels of nitrogen deposition than they can tolerate due to acidification and eutrophication, causing changes in biodiversity
Ground-level ozone	
<p>Ground-level ozone (O₃) is not emitted directly. It is a secondary pollutant formed by chemical reactions in the atmosphere. Concentrations are highest in the summer. O₃ can travel long distances and reach high concentrations far away from the original source of the original pollutants.</p> <p>O₃ is found in the troposphere, as opposed to stratospheric ozone found high up in the atmosphere, which protects the Earth from the sun's radiation.</p>	
<p>Sources include:</p> <ul style="list-style-type: none"> The effect of sunlight on NO_x and volatile organic compounds (VOCs) 	<p>Effects on health:</p> <ul style="list-style-type: none"> Respiratory irritant High levels may worsen asthma symptoms or trigger asthma attacks in susceptible people, and may cause chest discomfort for others <p>Effects on the environment:</p> <ul style="list-style-type: none"> Damage to plant species, forestry and crops
Sulphur dioxide	
<p>Sulphur dioxide (SO₂) is an acid gas, which can also combine with water vapour to form acid rain.</p>	
<p>Sources include:</p> <ul style="list-style-type: none"> Power generation Refineries Industrial processes Commercial and residential solid and liquid fuel use 	<p>Effects on health:</p> <ul style="list-style-type: none"> Associated with asthma and chronic bronchitis¹⁸ <p>Effects on the environment:</p> <ul style="list-style-type: none"> Damages plant species at high concentrations Acidification of habitats leading to loss of biodiversity
Heavy metals	
<p>Heavy metals include Nickel (Ni) which is a toxic metallic element.</p>	
<p>Sources:</p> <ul style="list-style-type: none"> Industrial metal processes e.g. refining and plating Combustion of heavy fuel oil 	<p>Effects on health:</p> <ul style="list-style-type: none"> Irritation to the nose and sinuses and allergic responses

¹⁸ WHO Factsheet on Air Pollution. [https://www.who.int/en/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/en/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health)

	<ul style="list-style-type: none"> • Long-term exposure may lead to respiratory diseases and cancers¹⁹
Benzo[a]pyrene	
Benzo[a]pyrene (B[a]P) is used as a 'marker' for a group of compounds known as polycyclic aromatic hydrocarbons (PAHs). PAHs are a group of chemicals, which accumulate in the environment, people and animals. They also have toxic and carcinogenic effects.	
Sources: <ul style="list-style-type: none"> • Industrial processes • Domestic burning 	Effects on health: <ul style="list-style-type: none"> • Toxic and carcinogenic effects, including lung cancer • Accumulated chemicals can pass up the food chain
Ammonia	
Ammonia (NH ₃) is a colourless gas with a strong odour. It can form secondary PM through reactions in the atmosphere, travelling large distances and depositing on land and increasing background levels.	
Sources: <ul style="list-style-type: none"> • Agriculture. For example, intensive livestock rearing, storage and spreading of manures, slurries and fertilisers • Waste sector 	Effects on health: <ul style="list-style-type: none"> • Increases in levels of particulate matter are linked with a range of effects, including respiratory and cardiovascular illness Effects on the environment: <ul style="list-style-type: none"> • Nitrogen-sensitive habitats can receive higher levels of nitrogen deposition than they can tolerate due to acidification and eutrophication, causing changes in biodiversity
Non methane volatile organic compounds	
Non-methane volatile organic compounds (NMVOCs) comprise a large group of organic chemical compounds, excluding methane.	
Sources: <ul style="list-style-type: none"> • Solvent processes, largely from domestic applications • Agriculture • Combustion processes in the residential, commercial and public sectors • Fugitive, evaporative losses • Indoor sources include upholstery, carpets, aerosols and cleaning products 	Effects on health: <ul style="list-style-type: none"> • Some have direct toxic effects; formaldehyde, for example, is known to cause cancer • Can worsen respiratory and cardiovascular illnesses • Indirect contribution to the formation of ground-level ozone, which causes respiratory and cardiovascular problems²⁰
Carbon monoxide (CO) is a gas formed following incomplete combustion, where the level of oxygen is insufficient to convert carbon-based fuels into carbon dioxide (CO ₂) and water.	

¹⁹ World Health Organisation Air Quality Guidelines 2000, PHE Chemical Hazards Compendium

²⁰ Science for Environment Policy Issue 269, 2014:

http://ec.europa.eu/environment/integration/research/newsalert/pdf/369na5_en.pdf

<p>Sources:</p> <ul style="list-style-type: none"> • Industrial combustion • Industrial processes • Domestic burning • Road transport 	<p>Effects on health²¹:</p> <ul style="list-style-type: none"> • Absorbed in the lungs, reducing the capacity of the blood to carry oxygen • Low concentrations can cause fatigue, breathing difficulties and stomach pain • High concentrations, which are possible indoors or in enclosed environments, can cause dizziness, confusion and unconsciousness (for example, due to poor ventilation) • High concentrations of CO are less likely to occur outdoors. However, when CO levels are elevated, they can be of particular concern for people with certain types of heart disease • Very high concentrations can be fatal <p>Effects on the environment:</p> <ul style="list-style-type: none"> • Can react with other pollutants to form ground-level O₃.
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²¹ PHE Chemical Hazards Compendium

Annex 4 - Glossary

APR	Annual Progress Reports
AQAP	Air Quality Action Plans
CAZ	Clean Air Zones
EU	European Union
GDPR	General Data Protection Regulation
LAQM	Local Air Quality Management Regime
LEZ	Low Emission Zones
NAEI	National Atmospheric Emissions Inventory
NECD	National Emissions Ceiling Directive
NO ₂	Nitrogen Dioxide
PM ₁₀	Particles with a diameter of 10 micrometres or less
PM _{2.5}	Fine Particulate Matter
PSB	Public Service Boards
PWMC	Population Weighted Mean Concentration
The Act	Clean Air (Wales) Act
The Bill	Clean Air (Wales) Bill
The Plan	Clean Air Plan for Wales: Healthy Air, Healthy Wales
White Paper	Clean Air White Paper
WHO	World Health Organisation

Annex 5 – Air quality legislation and guidelines

National air quality improvements have been driven by European Directives, including those, which set limits on ambient concentrations, UK pollutant emission reductions and concentrations of pollutants from specific sources, such as cars and industry. Under separate national legislation, which predated the Directives, Local Authorities tackle air quality issues at a local scale through the LAQM process.

The WHO publishes guidelines, which typically set stringent targets for pollutants, protective of adverse of health effects. However, advice from WHO is based solely on scientific conclusions about public health aspects of air pollution; they do not consider the technical feasibility or the economic, political and social aspects of the achievement of these levels.

Current air quality legislation

National improvements have been driven by European Directives, including those who set limits:

- a. *the Ambient Air Quality Directives (2008/50/EC and 2004/107/EC), which set limit values for the concentration of pollutants that must be met everywhere by specific dates (transposed by the Air Quality Standards (Wales) Regulations 2010);*
- b. the National Emission Ceilings Directive (2016/2284/EU), which tackles trans-boundary air pollution by setting national emission totals for each Member State for key pollutants to be met by 2020 and 2030 (transposed in to UK law by the National Emission Ceilings Regulations 2018); and
- c. legislation controlling emissions from specific sources such as industrial emissions (via the Industrial Emissions Directive), and emissions standards for road and off road vehicles and machinery.

Alongside setting limits on concentrations, Directive 2008/50/EC also has a target to cut average PM_{2.5} levels between 2010 and 2020 by 15%.

Under separate national legislation which predated the Directives, Local Authorities tackle air quality issues at a local scale through the Local Air Quality Management process. Part IV of The Environment Act 1995 sets provisions for protecting air quality in the UK and for LAQM. The statutory basis for the national air quality objectives (ambient concentration targets) to be worked towards by Local Authorities under LAQM is provided by the Air Quality (Wales) Regulations 2000, as amended by the Air Quality (Wales) (Amendment) Regulations 2002. There are equivalent regulations across the UK.

The Clean Air Act 1993 gives powers to Local Authorities and Welsh Ministers to limit the emission of smoke and other pollutants from industrial and domestic premises, and provides specific powers on the creation of Smoke Control Areas. At present the legislation does not specifically reference fine particulate matter.

Existing legislation, policies, strategies and guidance create the context in which to identify opportunities for increasing the scope and pace of beneficial intervention, to prioritise the problems to address and determine our personal, family, community and collective roles in responding to them.

This plan integrates with and complements other Welsh Government policies including planning, de-carbonisation, noise and soundscape management, environment, infrastructure, land use, transport and marine and fisheries.

A number of these policies have been referenced throughout this document.

This plan also sets out additional measures and actions to improve air quality and where possible achieve multiple beneficial results. We have ensured our approach is consistent with existing policy positions or those under development.

Primary legislation	
Clean Air Act 1993	Environment Act 1995
Environment (Wales) Act 2016	Planning (Wales) Act 2015
Pollution Prevention and Control Act 1999	Well-being of Future Generations (Wales) Act 2015
Secondary legislation	
Air Quality Standards (Wales) Regulations 2010	
European Legislation	
4 th Air Quality Daughter Directive 2005/107/EC	Ambient Air Quality Directive 2008/50/EC
Habitats Directive 922/43/EEC	Industrial Emissions Directive 2010/75/EU
The Nitrates Directive (91/676/EEC)	Landfill Directive 2018/850/EU
National Emissions Ceiling Directive 2016/2284/EU	Waste Framework Directive 2008/98/EC
Policies and Strategies	
Welsh supplemental plan to the 'UK plan for tackling roadside nitrogen dioxide concentrations 2017': Tackling roadside nitrogen dioxide concentrations in Wales	Sustainable Farming Scheme
Children's Rights in Wales	Clean Air for Port Talbot: Short Term Action Plan 2012
Creating an Active Wales	Curriculum for Wales 2022
Economic Growth Plan	Energy Efficiency Strategy
Energy Wales: A Low Carbon Transition	Food Strategy for Wales 2010 to 2020
Healthy Weight, Healthy Wales	Climate Change Adaptation Plan for Wales
Natural Resources Policy	Nature Recovery Action Plan (NRAP)

Noise and Soundscape Action Plan	North East Wales Metro: Moving North Wales Forward
Physical Activity Action Plan: Creating an active Wales	Planning Policy Wales
Prosperity for All - Low Carbon Wales	Resource Efficient Wales
South Wales Metro	Sport and physical activity strategy (Climbing Higher)
Strategic Action Plan for the Welsh Dairy Industry	Tourism Strategy (Partnership for Growth)
UK National Air Pollution Control Programme (NAPCP)	Wales Transport Strategy
Cymraeg 2050: Welsh language strategy	The Air Quality Strategy for England, Scotland, Wales and Northern Ireland
Guidance	
Clean Air Zone Framework for Wales	Code of Good Agricultural Practice
Environment (Wales) Act 2016 Part 1 Section 6 – The Biodiversity and Resilience of Ecosystems Duty: Reporting Guidance for public authorities	Environmental Permitting Guidance: Waste Incineration
Local Air Quality Management in Wales	Natural Resources Wales Guidance https://naturalresources.wales/guidance-and-advice/?lang=en
Technical Advice Notes https://gov.wales/technical-advice-notes	Transforming bus investment in Wales: Interventions toolkit
Welsh Transport Appraisal Guidance	
Other	
United Nations Convention on the Rights of the Child (1989)	

Annex 6 – Consultation response form

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

1. Do you agree with the proposal to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years? If not, please provide details
2. Do you agree with the proposed timescales for the review of the Clean Air Plan or Strategy? If not, please provide detail.
3. Do you agree Welsh Government should introduce a framework to set new air quality targets?
4. Do you agree with the proposed air quality target setting framework? If not, please provide evidence to support your answer, if available
5. Do you agree there is a need to clarify and strengthen legislation? If so, do you agree with the approach outlined?
6. Do you think a mutually agreed compliance date on a case by case basis will help to achieve air quality improvements in AQMAs, in the soonest possible time? Please provide detail.
7. How can we ensure the 'partners' concept improves and supports collaboration in improving air quality?
8. Will these proposals collectively help to deliver a more proactive and prevention focused LAQM regime?
9. Do you think the proposals would support the efficient and effective roll-out of Clean Air Zones / Low Emission Zones in Wales?
10. Do you believe revenue raised through trunk road charges should be available for purposes other than to support local transport policies (please specify)?
11. Do you agree with the proposals relating to tackling engine idling?
12. What do you think are the advantages/disadvantages of the proposals?
13. Can you suggest any additional approaches to tackle engine idling?
14. Do you have any evidence to present on the links between emissions and exposure in respect of idling?
15. Do you agree with the proposal to transpose Part 3 of the Clean Air Act 1993 (Smoke Control) into Welsh legislation?
16. Are there any other aspects of the Clean Air Act which you would consider appropriate for inclusion within Welsh legislation?
17. Do you agree changing the enforcement regime from criminal to civil action will assist in improving enforcement?

18. Would you agree in light of the evidence there should be a presumption in favour of Smoke Control, at a minimum in urban areas?
19. Do you agree with the proposals?
20. What are the advantages/disadvantages of the proposals?
21. In what other ways or by whom could the guidance be delivered? Please provide detail.
22. What would be best way(s) for stakeholders to report progress to the Welsh Government?
23. Do you have any additional points to make?
24. We would like to know your views on the effects these provisions would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.
25. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?
26. Please also explain how you believe the proposed provisions could be formulated or changed to have positive or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: