

# Local and national action – next steps?

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**Air Quality Management Under the New Government: Understanding  
National Priorities and the Next Steps for LAQM**

**Westminster Briefing**

**Tuesday 16th February 2016**

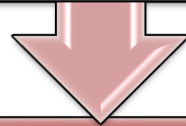
# Remit

- The next steps of Defra's ongoing LAQM review and what this means for local areas
- Successfully meeting NO<sub>2</sub> limit values: Outcomes from Defra's latest consultation
- What impact will recent judicial proceedings have on Local and National air quality improvements?

# LAQM consultations

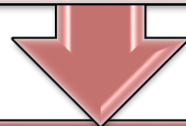
Phase 1: 12 Jul 2013 to 13 Sep 2013

[Review of Local Air Quality Management in England](#)



Phase 2: 19 Dec 2014 to 30 Jan 2015

[Review of Local Air Quality Management \(England\) - regulatory and guidance changes](#)



Phase 3: 26 Nov 2015 to 21 Jan 2016

[Review of Local Air Quality Management: Changes to guidance and reporting](#)

# Phase 1: Aims for improving LAQM

- Local action is focused on what is necessary to support air quality improvements to benefit public health and to work towards EU air quality standards [this aim is best delivered by Option # 3]
- Local government and other stakeholders are clear on their roles and responsibilities and work together to improve air quality [this aim could be delivered by Options # 2 or 3]
- Local authorities have simple reporting requirements with less bureaucracy and more time to concentrate on actions to improve air quality and public health [this aim could be delivered by Options # 2 or 3]
- Local authorities have access to information about evidence based measures to improve air quality including on transport and communications [this aim could be delivered by Options # 2 or 3]

# Defra's preferred proposed option

## Option 3: Alignment with EU requirements to meet air quality limit values

- All of Option 2 plus **Local authorities no longer required to carry out detailed assessments or to make/amend AQMAs.**
- Consolidate and amend Air Quality (England) and Air Quality Standards Regulations so that **local authorities work towards compliance with EU air quality limit values and targets** where there is scope for action at the local level.
- **No reporting requirements on local hotspots** outside of the national assessment of EU air quality standards but a stronger interest and reporting on local measures which help to improve air quality and bring us closer to compliance with EU air quality standards.
- Local authorities to focus on action planning and public health and **report on measures taken to improve air quality and these are included in reports to EU on compliance where quantified.**

# Phase 2: Summary of proposals

1. The following objectives will be removed from the 2000 (2002 as amended) Air Quality (England) Regulations:
  - Benzene
  - 1,3 Butadiene
  - Carbon Monoxide
  - Lead
2. The following role will be developed with a view to placing it in statutory guidance:
  - Local authorities to work towards reducing emissions of PM<sub>2.5</sub>
3. The LAQM reporting process will be streamlined
  - Local authorities will no longer be required to carry out separate: FAs (to be rescinded via the Deregulation Bill); USAs, Progress Reports and DAs. These will be replaced by a single, annual Improvement 'Status' report, the details of which will be consulted upon after the regulatory changes are completed.
4. Policy and technical guidance will be revised to:
  - Provide further clarity on roles and responsibilities
  - Update on good practice and provide further examples and case studies on effective actions local authorities can take to address air quality.

# Phase 3: Proposed changes to LAQM

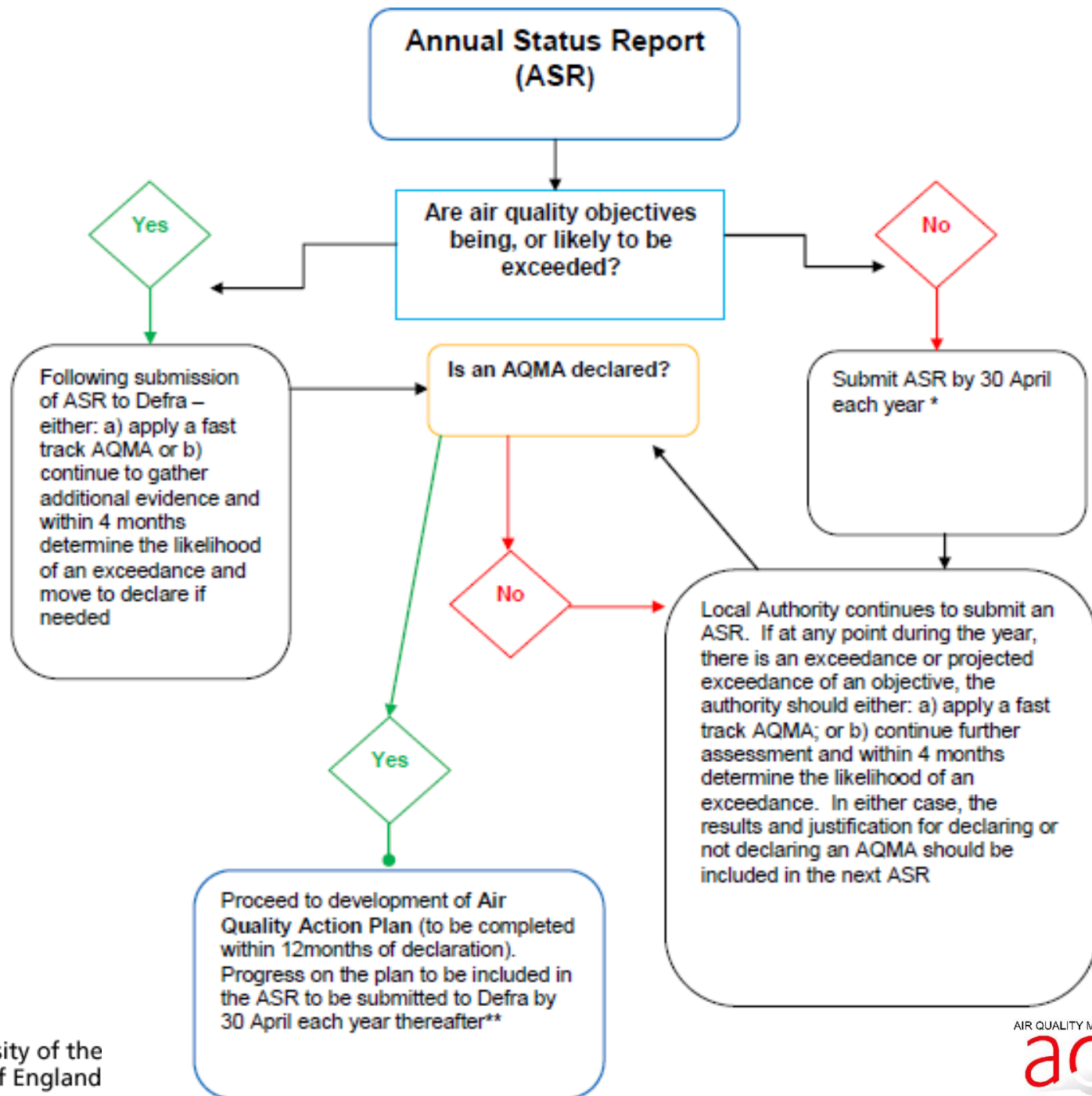
1. Annual Status Report – (ASR) (including public facing executive summary)
2. Option for fast-tracking AQMAs declaration
3. Action Plan template
4. Removal of the LA requirement to report on four historic pollutants which are now under control (unless local or national circumstances change)
5. PM<sub>2.5</sub> role for local authorities
6. Clarification of roles and responsibilities
7. Updating/improving policy and technical guidance

# Annual Status Report

Policy Guidance (Chapter 2), Technical Guidance (Chapter 3)

- To streamline local authority reporting burden and so make better use of resources.
- To aid local transparency, increase accessibility of air quality to the wider public audience and encourage buy-in on measures to improve air quality.
- ASR replaces the following existing reports: Updating and Screening Assessments (USAs), Detailed Assessment (DAs), Further Assessments (FAs), Progress Reports (PRs) and Air Quality Action Plan Progress Reports (AQAP PRs).
- First reporting deadline: 30<sup>th</sup> June 2016; April thereafter





# Option for fast-tracking AQMAs

Policy Guidance (Chapter 4), Technical Guidance (Chapter 3)

- To cut down on delays in declaring AQMAs and subsequent action planning process where monitoring/modelling is clear there is an exceedance or risk of exceedance.
- Gives greater flexibility in dealing quickly with air quality issues that might arise.
- Process clarified in guidance – 4 months max.
- Makes it clearer that local authorities have the option of fast-tracking or not (as is the current situation), with any monitoring and extra assessment taking place as part of the process to determine measures.

# Action Plan template

Policy Guidance (Chapter 5), Technical Guidance (Chapter 2)

- Under the ‘streamlining’ objective – a template for Action Plans will help reduce the burden on authorities in filling out information, and ensure greater consistency across local authorities but with the necessary flexibility to add additional sections where required.
- Action Plan template (draft included for review).

# Removal of historic pollutants

Policy Guidance (Chapter 2) and Technical Guidance (Chapter 1)

- Benzene, 1,3-butadiene, carbon monoxide and lead.
- To streamline local authority reporting burden – make better use of resources.
- Changes to the Policy (& technical) guidance to reduce requirements for reporting on these pollutants included in this consultation.

# PM<sub>2.5</sub> role for local authorities

Policy Guidance (Chapter 7), Technical Guidance (Chapter 2)

- To improve public health.
- Guidance has been strengthened on how such a flexible role can be interpreted by the local authority, including advice on monitoring / modelling of PM<sub>2.5</sub>.

# Clarification of roles and responsibilities

## Policy Guidance (Chapter 3)

- To improve accountability and responsibility for air quality control within local government.
- Guidance now clearer about legal obligations and best practice.

# Updating/improving policy and technical guidance

- To facilitate changes to the LAQM reporting regime.
- To update or remove out-of-date policies.
- To update air quality measures so that they are practical and evidence-based.
- To focus local authorities on taking action.
  
- Policy and Technical Guidance 2009 has been revised and strengthened, including; new case studies; evidence-based measures; updated links to external guidance and tools etc.
- The guidance has been formatted in a way that allows online updates, thus creating 'living documents' that can react to air quality policy as it evolves.

# LAQM: Next steps

- Consultation responses being reviewed.
- Revised Policy and Technical Guidance to be released thereafter.
- The intended start date for the new LAQM system is mid-2016.
- Local authorities expected to submit completed ASRs by the 30<sup>th</sup> June 2016.



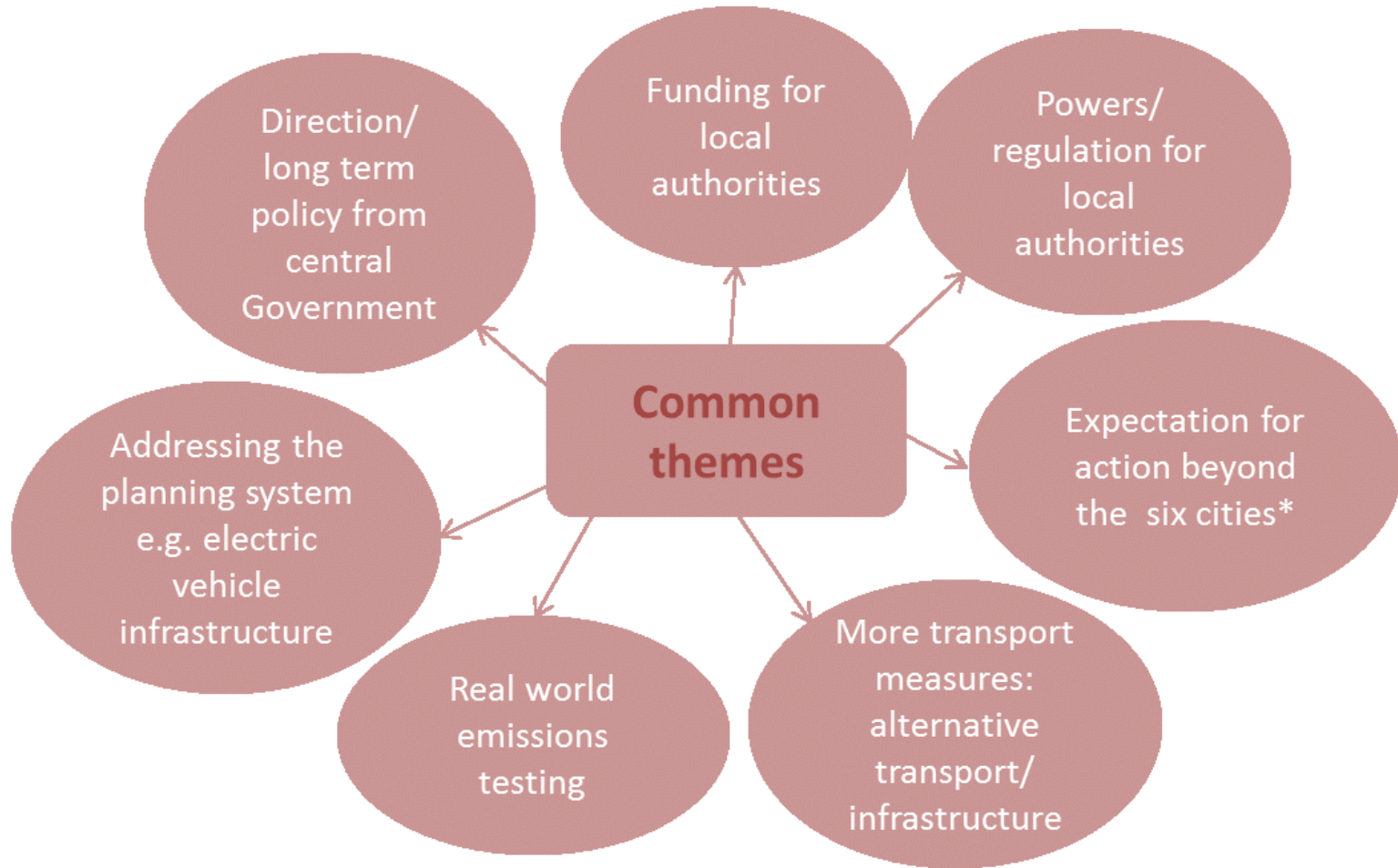
# Defra's Draft Air Quality Plans

1. Do you consider that the proposed plan set out in the overview document strikes the right balance between national and local roles?
2. Are you aware of any other action happening in your area which will improve air quality and should be included in the plan? If yes, please identify as far as you are able:
  - a) What the additional actions are;
  - b) The zone(s) in which they are being taken; and
  - c) What the impact of those actions might be (quantified impacts would be particularly useful).
3. Within the zone plans there are a number of measures where we are unable to quantify the impact. They are included in the tables of measures. Do you have any evidence for the impact of these types of measures?
4. Do you agree that a consistent framework for Clean Air Zones, outlined in section 4.3.6 of the UK overview document, is necessary? If so, do you think the criteria set out are appropriate?
5. What do you consider to be the barriers that need to be overcome for local authorities to take up the measures set out in section 4 (MEASURES TO BRING FORWARD COMPLIANCE) of the UK overview document? How might these be overcome? Are there alternative measures which avoid these barriers?
6. Are you aware of any additional action on non-transport sources to improve air quality that should be included in the plans?

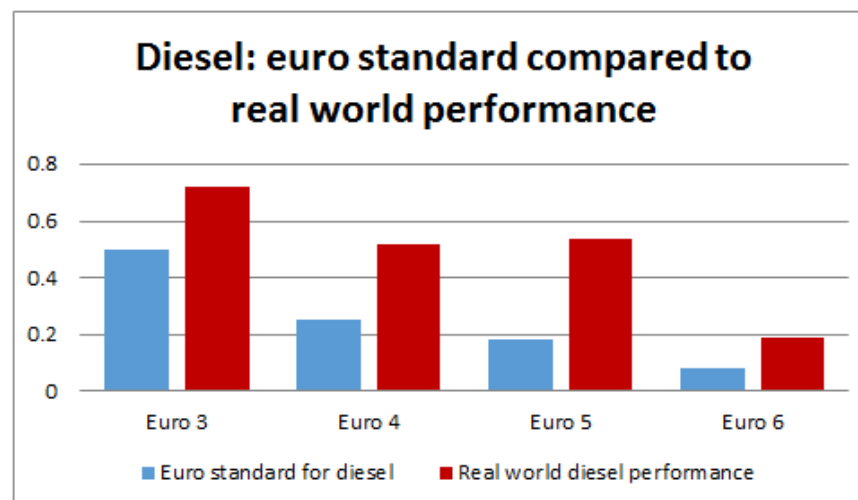
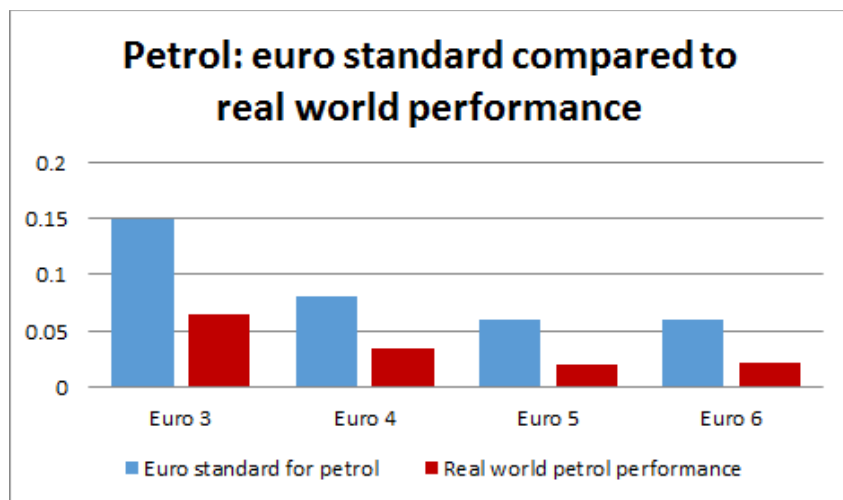
# Defra's Draft Air Quality Plans

- Consultation from 12 Sep 2015 to 6 Nov 2015
- Applies to England, Wales and Northern Ireland (separate consultation in Scotland)
- 729 responses [received](#)
- Government's final plan was [published](#) and submitted to the European Commission on 17 December 2015
- Technical report revised 18 January 2016

# Consultation responses



# Real-world emissions



	Central estimate of Euro 6 emission standards	If Euro 6 emissions standards do not perform as modelled <sup>1</sup>	Difference
Number of compliant zones in 2020	35	13	22
Number of non-compliant zones in 2020	8	30	
Total number of zones	43		

<sup>1</sup> Not performing is modelled here with real world emissions 5 times the estimated test emissions.

# Defra's Action Plans: Next steps

- Government will consult on the detail of the framework and draft legislation for Clean Air Zones in 2016.
- They will introduce legislation to mandate Clean Air Zones in Birmingham, Leeds, Southampton, Nottingham and Derby to include developing an impact assessment quantifying the costs and benefits of the policy.
- Funding will be provided for these five local authorities to carry out scoping studies.
- The councils will consult on the detail of the Clean Air Zone for their cities.
- Local authorities to take forward action in each area to implement Clean Air Zones in line with the new legislation; central Government will provide support and guidance.
- There will be close liaison with the six cities projected to exceed limits in 2020 without further intervention.

# Legal action



## ClientEarth vs Defra

## Commission v UK (Feb 2014)

16 zones and agglomerations

Breach of Articles 13 and 23

Reference from UK Supreme Court  
to the CJEU (1 May 2013)

Commission can refer directly to  
the CJEU

CJEU rules on questions of EU law:  
UK Supreme Court makes final  
ruling

CJEU makes final ruling

UK Supreme Court order requiring  
new plans

Declaration (2016)  
Fines (2020)

# ClientEarth case

- i) Where in a given zone or agglomeration conformity with the limit values for nitrogen dioxide cannot be achieved by the deadline of 1 January 2010 specified in annex XI of Directive 2008/50/EC is a Member State obliged pursuant to the Directive and/or article 4 to seek postponement of the deadline in accordance with article 22 of the Directive?
- ii) If so, in what circumstances (if any) may a Member State be relieved of that obligation?
- iii) If the answer to (i) is no, to what extent (if at all) are the obligations of a Member State which has failed to comply with article 13, and has not made an application under article 22, affected by article 23 (in particular its second paragraph)?
- iv) In the event of non-compliance with article 13, and in the absence of an application under article 22, what (if any) remedies must a national court provide as a matter of European law in order to comply with article 30 of the Directive and/or article 4 or 19?



# CJEU/ UK Supreme Court decisions

- The CJEU answered these questions in a judgment dated 14 November 2014 ([C-404/13](#)):
  - *When a Member State finds that the limit values cannot be respected before the deadline fixed by the Air Quality Directive and wishes to postpone that deadline for a maximum of five years, that Member State is required to make an application for the postponement of the deadline by drawing up an air quality plan demonstrating how those limits will be met before the new deadline.*
  - *Where a Member State has not complied with the limit values and has not applied for a postponement of the deadline in accordance with the prescribed conditions, it is for the competent national court, should a case be brought before it, to take, with regard to the national authority, any necessary measure, such as an order in the appropriate terms, so that the authority establishes the plan required by the directive to ensure, in particular, that the period during which the limit values are exceeded is as short as possible.*
- On 29 April 2015, the UK Supreme Court unanimously ordered that the government must submit new air quality plans to the European Commission no later than 31 December 2015 (<https://www.supremecourt.uk/cases/docs/uksc-2012-0179-press-summary.pdf>).

# UK Government back in the dock

- ClientEarth will make a legal challenge to force the Government to take faster action to achieve legal pollution limits in 2016.
- CEO James Thornton said: “These plans are an outrageous statement to the Supreme Court essentially stating that the government doesn’t intend to comply as soon as possible. It is an arrogant response that is simply not good enough.”
- While clean air zones are now promised for six cities – others, such as Glasgow, Manchester and Liverpool are not required to have zones.
- ClientEarth air quality lawyer, Alan Andrews, said: “In April, the Supreme Court ordered the government to come up with a plan to achieve legal pollution limits as soon as possible. The Government’s latest plan for clean air zones doesn’t tackle all pollution from passenger cars – one of the biggest sources of poor air quality, and fails to take action in dozens of other cities where people are breathing illegal levels of pollution.
- “The Government seem to think that the health of people in cities like Glasgow, Manchester and Bristol is less important than that of people in London. While London gets a clean air zone covering all vehicles, Birmingham gets a second class zone and Derby and Southampton third class, while other areas including Manchester and Liverpool are left out. We all have the same right to breathe clean air.”
- <http://www.clientearth.org/news/press-releases/arrogant-uk-government-response-to-air-quality-will-face-court-challenge-3102>

# EC decision



# Thanks - Any questions?

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# New Air Quality professional courses

The [Air Quality Management Resource Centre \(AQMRC\)](#) in the Department of Geography and Environmental Management, UWE Bristol, is pleased to offer a new suite of Air Quality short professional development courses.

The courses will be of interest to practitioners and policy makers involved in air quality management in:

- Environmental health/protection
- Public health
- Transport
- Land-use planning

This new suite consists of five one-day courses covering the following topics:

- [Air Quality Management](#)
- [Air Quality Monitoring](#)
- [Air Quality Dispersion Modelling](#)
- [Air Quality and Development Control](#)
- [Air Quality Action Planning](#)



The course content reflects best practice statutory and non-statutory guidance, and includes the latest changes to the Local Air Quality Management guidance published by Defra and the Devolved Administrations.