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# How the government's air quality plan will affect the spread of clean air zones

12 May 2017 by Richard Garlick , [Be the First to Comment](#)

The draft UK air quality plan that campaigners finally dragged out of a reluctant government earlier this month indicates that there will be a sharp increase in zones across England in which targeted action is taken to improve air quality. But where these new zones will be, and how stringent the measures they will implement, is not yet clear.



Air pollution:

government's latest draft plan to tackle problem has been published

The environment secretary had originally argued that rules on the statements that can be made by government in a pre-election period would prevent her from publishing the draft plan until after the election. But campaign group ClientEarth successfully challenged this in the High Court, which ordered the government to release the document immediately after the May 4 local elections.

The draft plan focuses on reducing concentrations of nitrogen dioxide (NO<sub>2</sub>) around roads, which the government describes as its "most immediate air quality challenge". In 2015, 37 of the UK's 43 zones for air quality monitoring exceeded the statutory annual mean limit for NO<sub>2</sub>.

According to Justine Thornton QC, of 39 Essex Chambers, air quality issues are important for planners. Government guidance points out that local authorities' planning and air quality functions should be carried out in close co-operation, she points out, and the National Planning Policy Framework requires local authorities to take account of air pollution in local plans and when determining planning applications.

The government's draft plan says that, where the evidence shows persistent air quality exceedances, "local authorities must develop plans to achieve compliance within the shortest time possible".

One of the methods which councils can use to do this is to establish a clean air zone (CAZ), which the government defines as "an area in which targeted action is taken to improve air quality and resources are prioritised and coordinated in a way that delivers improved health benefits and supports economic growth". There are two categories of zone, one of which can involve road user charging and one of which can't.

In 2015, the government proposed the creation of charging zones in five cities by 2020: Birmingham, Leeds, Nottingham, Derby and Southampton. It has also consulted on draft secondary legislation that would enable the environment secretary to require local authorities in these cities and other places to implement air quality charging schemes.

In this month's plan, the government says that recent evidence on "real world vehicle emissions following the diesel emissions scandal" suggests that "a larger number of towns and cities" may now need to implement a Clean Air Zone. The consultation document issued alongside the draft air quality plan includes a table of 38 English local authorities with one or more roads forecast persistently to exceed NO<sub>2</sub> legal limits, although warns that this list is subject to change.

The government says its final UK air quality plan for tackling nitrogen dioxide, which is due to be published in July 2017, will make clear the local authorities which will formally and legally be required to develop and implement comprehensive Clean Air Zone plans.

Not all of the 38 authorities listed in the draft plan, which includes the five cities already proposed for zones, will necessarily have to introduce CAZs, says Thornton. "The language of the plan is 'soft', perhaps due to the election period we are in," she says. "It makes clear a CAZ is not necessarily mandatory for these local authorities".

Environmental pressure groups have been highly sceptical about the potential of CAZs that do not use road charging to clean up excessive NO<sub>2</sub> emissions. But the draft plan says that local authorities should have the opportunity to find alternatives before the charging approach is adopted. However, the draft plan also says that: "The government will require local authorities to implement measures that will achieve statutory limits in the shortest time possible".

Bircham Dyson Bell partner Angus Walker argues that this should mean a stringent test of the likely effectiveness of a non-charging zone before it is permitted to be introduced. "Surely it should be demonstrated that the speed of achievement of air quality limits will be the same if a charging or non-charging CAZ is introduced into an area before a non-charging one should be allowed," he says.

Thornton says the delegation of much of the decision-making on air quality improvements to local level will create uncertainty. "It's still unclear what this will mean for developers/infrastructures beyond the general proposition that development in or near poor quality areas can expect to come under considerable scrutiny, particularly with respect to traffic impacts, and may be required to contribute funding or make other provision to wider air quality measures," she says. "This could give rise to different approaches by different

local authorities – which may be problematic for developers".

Where CAZs are required, they will be "signed off" by government, "ensuring that they are effective, fair and deliver air quality compliance", the draft plan says. The government expects any necessary CAZs to take up to three years to implement.

The plan also says that the government will monitor local progress, and set out "ambitious" air pollution reduction targets in UK law. Any revenues collected by local authorities as a result of charging CAZs will be reinvested to support local transport policies, the draft plan says, for instance by means of "better town and city planning".

Other additional measures to tackle excessive NO<sub>2</sub> emissions proposed in the draft plan include: a Clean Air Zone framework for Wales, a National Low Emission framework for Scotland and the development of air quality planning guidance in Northern Ireland.