

# Agenda – Climate Change, Environment, and Infrastructure Committee

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Meeting Venue:

Hybrid: Committee room 4 Tŷ Hywel  
and video Conference via Zoom

Meeting date: 4 May 2023

Meeting time: 09.30

For further information contact:

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Committee Clerk

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## Private pre-meeting (09.15–09.30)

## Public meeting (09.30–14.10)

### 1 Introductions, apologies, substitutions, and declarations of interest

(09.30)

### 2 The Environment (Air Quality and Soundscapes) (Wales) Bill – evidence session 1

(09.30–10.45)

(Pages 1 – 52)

Dr Victoria Jenkins, Associate Professor, Law – Swansea University

Professor Enda Hayes, Professor of Air Quality and Carbon Management –  
University of the West of England

Attached Documents:

Research brief

Paper – Dr Victoria Jenkins

Paper – Professor Enda Hayes

## Break (10.45–10.55)



### **3 The Environment (Air Quality and Soundscapes) (Wales) Bill – evidence session 2**

(10.55–12.15)

(Pages 53 – 96)

Joseph Carter, Head of Devolved Nations – Asthma and Lung UK

Professor Gwyneth Davies, Professor of Respiratory Medicine & Respiratory Physician – Royal College of Physicians

Dr Sarah Jones, Consultant in Environmental Public Health – Public Health Wales

Attached Documents:

Paper – Healthy Air Cymru

Paper – Asthma and Lung UK

Paper – Royal College of Physicians

Paper – Public Health Wales

### **Lunch break (12.15–12.45)**

### **Private pre-meeting (12.45–12.55)**

### **4 The Environment (Air Quality and Soundscapes) (Wales) Bill – evidence session 3**

(12.55–14.10)

(Pages 97 – 101)

Councillor Matthew Vaux, Spokesperson for Regulatory Services – Welsh Local Government Association (WLGA)

Ian Jones, Head of Service, Public Protection – Wrexham County Borough Council, and Environmental Protection Lead on behalf of Directors of Public Protection Wales (DPPW)

Steven Manning, Senior Scientific Officer (Community & Environment) – Newport City Council

Tom Price, Team Leader, Pollution Control – Swansea Council

Attached Documents:

Paper – Newport City Council

## **5 Papers to note**

### **5.1 The Environment (Air Quality and Soundscapes) (Wales) Bill**

(Pages 102 – 111)

Attached Documents:

Response from the Minister for Climate Change to the Chair's letter of 31 March in relation to The Environment (Air Quality and Soundscapes) (Wales) Bill

### **5.2 Water pollution in Welsh rivers and seas**

(Pages 112 – 114)

Attached Documents:

Letter from letter from Rt Hon Stephen Crabb MP, Chair of the Welsh Affairs Committee to the Chair in relation to a letter sent to the Minister for Climate Change about water pollution in Welsh rivers and seas.

## **6 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting**

(14.10)

### **Private meeting (14.10–14.40)**

## **7 The Environment (Air Quality and Soundscapes) (Wales) Bill – consideration of evidence received under items 2, 3 and 4**

**8 Annual scrutiny of Natural Resources Wales – consideration of the Committee's draft report**

**9 Consideration of the Committee's forward work programme**

(Pages 115 – 118)

Attached Documents:

Paper – Forward work programme

Document is Restricted

**AQS 07 Dr Victoria Jenkins, Associate Professor, HRC School of Law,  
Swansea University**

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**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change,  
Environment, and Infrastructure Committee**

**Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment  
(Air Quality and Soundscapes) (Wales) Bill**

Ymateb gan Dr Victoria Jenkins, Athro Cysylltiol, Ysgol y Gyfraith HRC, Prifysgol  
Abertawe | Evidence from Dr Victoria Jenkins, Associate Professor, HRC School of  
Law, Swansea University

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**Evidence to the Committee on Climate Change, Environment and Infrastructure on the Environment (Air Quality and Soundscapes) (Wales) Bill.**

**Dr Victoria Jenkins, Associate Professor, HRC School of Law, Swansea University.**

**25<sup>th</sup> April 2023**

**Overview**

**Please note: these comments relate only to the air quality provisions of this Bill.**

The Bill is very timely in addressing the important issue of air quality in Wales in light of increasing scientific evidence of the effects of a range of pollutants on human health and the environment.

Air quality is clearly a matter that requires a multi-level governance approach. It is important, especially in the context of Brexit, to ensure that the Welsh Government has the necessary powers to address air pollution concerns at a national and local level and contribute to wider UK and international goals.

There are several key considerations in developing air quality legislation. First, recognising the pressing nature of the problem and the need to adopt targets that are achievable and enforceable. Secondly, understanding the complexities of the problem: the fact that air pollution has multiple sources, that pollutants may interact with one another and that the issue is transboundary in nature. Air pollution is also an area that is subject to continuing developments in scientific understanding. For all these reasons the law needs to be flexible/adaptable, but without losing sight of the importance of accountability and legal certainty.

In Wales, it is also important to ensure that any new laws comply with the principles of the well-being of future generations. This is particularly important with respect to key environmental legislation such as this. Those principles require the legislation to: provide for long term thinking; support preventive action; ensure a collaborative and participative approach; and recognise the interconnections between air quality and other social, economic, environmental and cultural goals.

The Bill aims to strengthen the existing law on the development of targets for air quality and adopt a strategic, action focused approach to meeting those targets. It will also address some specific concerns around the regulation of smoke and fuels in smoke control areas and vehicle emissions.

Going forward it is very important that the Welsh Government bring forward proposals to set up an environmental body that will have the powers to hold it to account in relation to air quality targets under current national legislation (including EU retained law) as well as this new legislation.

### **Air Quality Targets**

The aim of the new framework for air quality targets was to “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.”

### **Framework for the introduction of long-term targets.**

EU retained law, introduced on a Wales only basis, creates a framework for achieving limit values for a range of pollutants whilst UK legislation provides for national emission ceilings for some of these and others. This new legislation will, however, provide Welsh Government with a power to introduce long-term targets for air pollutants. There is no obligation to do so with the exception of targets for PM 2.5 (see section below). This provides flexibility but raises issues of accountability and may need further consideration.

When creating a legislative framework for target setting it is important to support the introduction of: (i) appropriate targets; (ii) in an appropriate time frame; (iii) that can be achieved; and (iv) that will be carefully monitored and measured.

‘Appropriate’ air pollution targets – This depends on scientific understanding which, of course, develops over time. In the Bill this will rest on the duty of Welsh Government to: seek advice from persons they consider to be independent and to have relevant expertise; and to have regard to scientific knowledge on air pollution. This allows Welsh Government quite wide discretion in this respect, especially the reference to Welsh Government adopting its own view of what is an independent source and the expertise of that source. The ‘have regard’ duty with respect to ‘scientific knowledge’ also provides Welsh Government with discretion. However, in



an area where there will undoubtedly a number of experts, who may change over time and have competing views, this discretion may be necessary to ensure the practicability of the system.

Appropriate time frame – providing for more long-term thinking on environmental matters is generally viewed as a pressing need across the board. It is a concern that is supported by the well-being legislation. With that in mind the inclusion of 10 year plus targets is to be welcomed. The introduction of system of 5 year reviews of those targets will also ensure that action by Welsh Government remains focused. That said the provisions for review are fairly stringent and it will be important to ensure that, in practice, the system does not become ‘process oriented’ rather than ‘action focused’. However, this will perhaps be alleviated by the ability to draw on evidence from the annual reporting system.

Ensuring the targets are met – there is a very clear obligation on Welsh Government in ss3 and 4 to set targets that are achievable and to meet those targets. This is important because targets are clearly only useful if they are achievable and achieved. There are also detailed provisions allowing Welsh Government to reduce existing targets in some circumstances. There is, of course, a need to balance a duty to meet targets with a means of providing an exception. The circumstances for reducing targets are also clearly defined in this Bill and there is a duty to refer to the Senedd if this power is used.

The introduction of a novel framework for setting targets that are achievable and achieved is to be welcomed. However, it is also important to ensure that the targets set are ambitious and there is nothing in s3 to support this. That said, given the novelty of the provisions, it may well be appropriate to move forward with this approach and review the implementation of the legislation in due course in order to see how it plays out in practice.

#### Monitoring and measuring progress.

There is a clear and stringent framework for reporting on the targets. As outlined above, this should feed into the 5 year reviews. There are, however, wide discretionary powers for Welsh Government with respect to monitoring. Given the significance of data to the reporting system and measurement of progress this may be an area that requires further consideration.

## **PM 2.5 targets**

Special provision is made in the Bill for the introduction of a target on PM 2.5. s2 (1) provides Welsh Ministers with a duty to introduce at least one target in this respect.

The Clean Air Advisory 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 (PM2.5) as a first priority.”

It is notable however, that s2(2) states that a ‘PM2.5 air quality target may be a long-term target but need not be so’. This means that, overall, the legislative framework only allows for the introduction of a shorter-term target for PM 2.5. It may be that this provision was included to address discrepancies between this and other limit values and emissions ceilings for air pollutants; to ensure the priority of PM 2.5; or because there is a particular reason why a short term target might be appropriate to PM 2.5. However, the legislative framework will have significant longevity and it is not clear that PM 2.5 is the only air pollutant that might benefit from shorter term targets in future.

## **The Legislative Framework and Future Challenges.**

The need to ensure the legal framework is fit for purpose in providing for emerging pollutant risks is demonstrated by the example of ammonia.

In the White Paper Welsh Government stated that the aim of the legislation was to “place a particular focus on protecting vulnerable individuals and sensitive habitats from the harmful effects of air pollution.” Environmental groups such as the United Kingdom Environmental Law Association and Wales Environmental Link are clear that one of the biggest threats to the environment and sensitive habitats is from ammonia.

There are currently emission ceiling standards for ammonia but no limit values. Whilst Welsh Government have stated that there needs to be more evidence on this, they are also open to introducing targets in this respect in future. This is also in line

with the ambition to provide a legal framework that will allow them to “introduce targets for newly identified pollutant risks based on evidence as it emerges in the future.” It may be the case that it would be beneficial to introduce short term as well as longer term targets in this respect, but this would not be possible under the legislation in its current form.

It may be argued that the Bill is deliberately trying to focus attention on long-term targets but, if that is the case, there is still a need to understand the justification for a different approach for PM 2.5.

## **Other Provisions on Air Pollution**

### General duty for Welsh Government on Public Awareness

The duty on Welsh Government to take steps to promote awareness in Wales of the risks to human health and the natural environment caused by air pollution; and ways of reducing or limiting air pollution is to be welcomed. However, note the specific issues with respect to public knowledge and understanding set out below in the sections on Smoke Control and the Accessibility of Welsh Law on Air Pollution.

### National Air Quality Strategy (NAQS)

The Bill includes a number of provisions to amend the parts of the Environment Act 1995 that relate to the creation and implementation of the National Air Quality Strategy.

*Time for review* - The provisions on the power to amend the time for review of the national air quality strategy appear to be appropriate.

*Consultation on the strategy* - There are also changes to the way the strategy is consulted on. The new provisions are more relevant to the situation in Wales, including for example reference to Public Health Wales. It is notable that this has resulted in dropping the reference to ‘any other body the Welsh Ministers consider appropriate’. Whilst discretionary powers need to be considered carefully this may be appropriate in this instance given the need to account for future developments in our understanding of air pollution and its effects on human health and the environment.

*The 'have regard' duty* – This provides Welsh Government with powers to introduce Regulations defining the Welsh public authorities who will be subject to a duty to have regard to the NAQS. It will be important to carefully consider the nature of a Welsh public authority in Regulations produced under this legislation. There are now several pieces of legislation with different definitions of this which may be appropriate but also causes some confusion.

Regulations on the implementation of the NAQS, EU retained law on air quality, international agreements and the assessment and management of air quality.

s87 Environment Act 1995 sets out detailed provisions on the powers of Welsh Ministers to create Regulations to meet these wide objectives. The Bill includes provision to change the sections on consultation on these Regulations in line with those discussed above with respect to the NAQS.

However, it is notable that these Regulations may, inter alia, prescribe standards relating to the quality of air and/or objectives for the restriction of the levels at which particular substances are present in the air. This Bill presents the opportunity to provide a power or duty to ensure that, as with target setting, these are based on independent, expert advice in line with scientific knowledge. This may not be necessary if those standards and objectives align entirely with those set out in other areas of law (which will be based on this advice and knowledge). However, it may be useful when considering an appropriate contribution through local action to a particular target, especially given the power to provide different provision for different cases including different provision in relation to different localities. As a result, it may be an issue that is worthy of further consideration.

#### Local air quality reviews

The provisions to strengthen the requirement to carry out a review every 12 months rather than from 'time to time' is appropriate given the urgency of the need to tackle air quality. Clearly, however, there are significant resource implications here for local authorities which were raised in many responses to the consultation on the White Paper.

The Bill also strengthens current provisions in the Environment Act 1995 on action planning by local authorities to meet the standards and objectives set out in the

Regulations referred to above. These provisions also appear to be appropriate. However, the review of such plans may be carried out 'at any time'. This leaves local authorities with wide discretion in this regard. This may, however, be appropriate to ensure the system does not become 'process driven' and unnecessarily resource intensive.

## **Smoke Control**

The Bill includes detailed provisions around offences for the acquisition and sale of certain fuels; the emission of smoke in a Smoke Control Area (SCA) and the exemption of certain fireplaces in this regard. It is undoubtedly sensible to focus on the standards of fireplaces and fuels rather than rely on domestic approaches to the control of smoke. However, there are important gains to be made through public knowledge and understanding. There is a real need for better public information on the best practice in the use of domestic burners (in terms of both appliances and fuels) as well as the risks they pose to air quality. This should perhaps, therefore, be a priority in furthering the new general duty on public awareness.

Beyond the need for general advice to householders there are important offences in this legislation with respect to the emission of smoke in Smoke Control Areas. With this in mind, there is an urgent need for publicly accessible information on Smoke Control Areas. At present, SCAs are introduced through a Local Order but there is no duty to ensure this information is made publicly available; or at least in a way that is clearly accessible, for example by publishing this information on the local authority website. This means there are duties in place to publish the lists of fuels and fireplaces that are prohibited in Smoke Control Areas but not to make clear where those areas are. This is an issue that needs to be urgently addressed and this Bill would provide an opportunity to do so.

## **The Accessibility of Welsh Law on Air Pollution.**

Air pollution is complex and the responses to it are necessarily driven by detailed and in-depth scientific evidence. The need for different approaches in terms of targets, limit values and emissions ceilings is linked to this complexity. However, there is still a need to ensure public understanding of Welsh Government action on air quality and their responsibilities under air quality law. The latter is particularly important given the significance of recent litigation in holding governments in the UK to account in meeting air quality standards.

This new legislation will in some respects create an additional 'layer' of legislation. In other respects, it will amend existing laws, such as the Environment Act 1995, which include provisions relevant to nations across the UK. This will undoubtedly increase the complexity of Welsh law on air pollution. This should perhaps be considered a priority for consideration under the Legislation (Wales) Act 2019.

## **The Enforceability of Welsh Law on Air Pollution.**

The point made in the introduction about the importance of a Welsh body on environmental protection is very important to the future success of this legislation.

## **AQS 04 Professor Enda Hayes on behalf of staff at the Air Quality Management Resource Centre, University of the West of England**

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**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

**Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment (Air Quality and Soundscapes) (Wales) Bill**

Ymateb gan Yr Athro Enda Hayes | Evidence from Professor Enda Hayes

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### **General principles**

#### **What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?**

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Historically, the air quality management process in Wales (and the UK) has been very effective and efficient at identifying and diagnosing air quality problems. However, the process has failed to improve air quality and achieve compliance with some National Air Quality Objectives (and EU Limit Values) due to poorly worded primary legislation (e.g. Environment Act, 1995), insufficient funding for interventions, lack of political will, policy disconnects etc. Overall, we welcome the Bill and we support the principles underpinning it as it seeks to close these gaps and provide a robust yet flexible mechanism to support air quality management in Wales, improve air quality and maximise the public health outcomes.

It is notable that the focus is very much orientated towards road transport and solid fuel burning which is understandable due to our current understanding and concerns. However, the nature of some elements of the Bill (e.g. target-setting) are designed to be futureproofed and flexible (which we support) but we worry, that the Bill doesn't have the same flexibility to tackle other sources and emerging pollutants e.g. ammonia from agriculture.

#### **What are your views on the Bill's provisions (set out according to sections below), in particular are they workable and will they deliver the stated policy intention?**

##### **National air quality targets (sections 1 to 7)**

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Creating a process within the Bill to have a target-setting framework that is scientifically robust yet adaptable makes sense as it allows the Bill to be accommodating of new evidence and to be proactive in targeting emerging issues. Using evidence from WHO, Air Quality Expert Group (AQEG), Committee on the Medical Effects of Air Pollutants (COMEAP) and the Welsh Clean Air Advisory Board will be essential for this process.

It is understandable that robust data is needed to support the design and evaluation of these targets. However, we have been measuring air quality in Wales for decades and therefore have a very good understanding of spatial and temporal trends in concentrations and we must ensure that action paralysis doesn't set in while data collection is being improved.

I have some concerns about the timeline for target setting and compliance with that target. My understanding is (1) a specific target in respect of PM2.5 in ambient air will be set within three years of the Bill receiving Royal Assent; (2) this long-term target must be achieved within 10 years; (3) if it is not achieved then a report should be produced with 12 months to explain why; and (4) that report should outline the actions to be taken to achieve it "as soon as reasonably practicable". If we assume the Bill gets Royal Assent in 2024, then the targets are set by 2027, non-compliance is determined in 2037, a report explaining why and what actions should be taken in 2038 and then "reasonably practicable" action taken for an undetermined amount of time to achieve the target. This does not appear to be a timeline to tackle a public health crisis of 1,000 to 1,400 deaths each year! Long-term targets are fine but lessons from 20+ years of air quality management suggests that long-term targets can result in inaction in the early years. What are the interim evaluation steps and proactive measures that can be taken if Wales is not on track to achieve the targets?

It is good to see that there are provisions in place so that Welsh Ministers must ensure that the targets are met but there must be meaningful consequences if they are not achieved. What are these consequences?

### **Promoting awareness about air pollution (section 8)**

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«This is a very important part of the Bill but it feels under developed. There has been a notable failure of existing policy to bring citizens, communities and organisations on board with understanding air quality and more importantly helping people to take ownership of the problem and the solutions. 'Promoting awareness', as outlined in the Bill, is very passive and appears to be focussed on traditional 'Transmit and Receive' models of public engagement (e.g. putting data on websites, time-limited consultations etc). We need meaningful public



collaborative and participatory engagement mechanisms, where we can connect people's lived experience (driving to work, taking children to school, shopping, leisure, home heating) to the air quality challenge and then encourage greater ownership by the public of the solutions.

Only by moving beyond 'promoting awareness' can we tackle communication issues related to air pollution such as (1) poor perception of health risk; (2) psychological distance from the consequences and the cost/health elements not being immediately recognised; (3) the negative framing of environmental issues against society e.g. higher taxation, low quality of life etc; (4) better contextualisation to allow people to make sense of data in relation to the real world; (5) overwhelming people with information.

Finally, the wording suggests a one-way transaction of information (i.e. Government to public). Should the Bill be more receptive of a two-way transaction whereby citizen and community evidence can be utilised for awareness raising and evidence gathering to inform Welsh Government e.g. citizen science?

Please note my comment regarding awareness raising and education under the LAQM question 2.v.

### **National air quality strategy (sections 9 to 11)**

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The inclusion of a requirement to update the National Air Quality Strategy (NAQS) every 5 years is supported. A NAQS is a very important document if properly co-created and correctly calibrated. Not only can it embrace and operationalise other policies (e.g. making formal connections to Llwybr Newydd 2021, Wellbeing and Futures Generation Act) but it is also one of the primary levers to ensure that the air quality management process is focussed both on prevention and moving beyond compliance. However, for that to happen the NAQS must have meaningful actions rather than vague "policy intentions".

The aim is that air quality management in Wales should be preventative, proactive and focussed on achieving the best air quality to protect public health rather than just compliance. There appears to be a policy disconnect within the Bill in that there are no local/regional mechanisms to support a preventative approach. Therefore, is there a need for explicit legislation that requires the localisation of the NAQS through a series of Regional AQS? The Local Air Quality Management process requires Action Plans (mitigation) where an Air Quality Management Area exists but these plans are not created if there is compliance with the current Air Quality Objective. The creation of Regional AQS can

encourage greater partnership opportunities across policy areas, across local authorities and if co-created with National Government can localise the NAQS to empower proactive measures.

### **Air quality regulations (section 12)**

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No substantive comments of this section. It makes sense to update the regulations to be more inclusive in consultation processes. How these consultation processes are run to ensure that they include a broad and representative public voice is most important.

### **Local air quality management (sections 13 to 15)**

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The Local Air Quality Management (LAQM) process is no longer fit for purpose and needs a substantial overhaul to incorporate the evolution of our scientific understanding and lessons learnt over the last two decades. As previously stated, the LAQM process is effective and efficient at identifying and diagnosing hotspots but not effective at resolving them. Clarifying and strengthening LAQM legislation to ensure the regime operates more effectively is essential and many of the issues that it faces could be addressed in statutory guidance.

- The LAQM process is a health-based risk management process but the consideration of people beyond “relevant exposure” is largely absent – this could be addressed through innovation in the Review and Assessment process.

- The declaration of the Air Quality Management Area (AQMA) has traditionally been a very techno-centric step. This process could be redefined to consider maximising the public health benefits.

- As previously stated, Local / Regional Air Quality Strategies, with meaningful actions, will be an essential mechanism for collaborative and coordinated prevention of poor air quality and negative public health impacts.

- LAQM can be a powerful tool for improving public engagement and education and ensuring that it goes beyond just ‘raising awareness’. For example, making air quality data available and easy to interpret through interactive tools, timely and regular publishing of air quality reports, public friendly and non-technical summaries of air quality reports, and providing support in the interpretation of data and policies etc.

Finally, it is pleasing to see that the language used to determine compliance has been strengthened. The use of the term “in pursuit of the achievement of the air quality standard” in Section 84(2) of Environment Act 1995 was a notable

weakness. The strengthening of the policy intention to “secure” the standards is very welcome.

### **Smoke control (sections 16 to 18)**

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Solid fuel burning is a (re)emerging issue that needs to be addressed urgently, so steps for better enforcement are important.

Lessons can be learned from the LAQM process. At the moment there are only four Smoke Control Areas in Wales and these are focussed on larger urban areas but the LAQM process has shown us that smaller rural towns can also have notable air quality issues. The implementation of Smoke Control Areas needs to be proportionate, targeted, and impactful to address this challenge.

### **Vehicle emissions (sections 19 to 21)**

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No substantial comments on this section. Powers to implement interventions are essential as they address a major weakness in existing provisions.

The implementation of CAZ should be carefully evaluated. While evidence does suggest that they have a notable impact on air pollution there are also a substantive social equity issues linked to them, especially if charging is involved.

Targeting anti-idling enforcement on locations where vulnerable groups are makes sense. However, it is important define who are considered “vulnerable”. Certainly, from a health perspective, evidence suggests that young, elderly and those with existing health conditions are most vulnerable to the effects of air pollution so the focus on schools, care homes and health care locations is sensible. Clarity on which agency will be tasked with enforcing vehicle idling offences would be welcome.

### **National soundscapes strategy (sections 22 and 23)**

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No substantive comment for this section. This innovative approach is welcome, and it is important to ensure coordinated action across policy areas and environmental concerns (e.g. air quality, noise, climate) to maximise co-benefits and avoid trade-offs.

### **Strategic noise map and noise action plans (sections 24)**

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No comment

### **General provisions (sections 25 to 28);**

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No comment

**What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?**

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No comment

**How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?**

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No comment

**Are any unintended consequences likely to arise from the Bill?**

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None that I am aware of.

**What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?**

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No comment

**Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?**

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No comment

## AQS 01 Healthy Air Cymru

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Ymateb gan Awyr Iach Cymru | Evidence from Healthy Air Cymru

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## General principles

### **What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?**

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Thank you for the opportunity to respond to the Environment (Air Quality and Soundscapes) Bill consultation. We welcome the need for clean air legislation and have been calling for a 'Clean Air Act' since 2017. There is no safe level of air pollution. An air pollutant is any substance in the air that could harm people. Particulate matter, known as PM, and nitrogen dioxide are particularly damaging. We also know that deprived communities are often in areas with higher levels of air pollution, contributing to health inequalities. When people are exposed to high pollution levels, for example on a busy road or during a high pollution episode, they breathe in these toxic materials into their lungs. As well as longer term impacts, many people initially experience immediate symptoms such as irritated airways, feeling out of breath and coughing. Poor air quality has been linked to several conditions, with growing emerging evidence that highlights the high levels of air pollution impacting every level of society by increasing the chances of lung cancer, childhood asthma, COPD, miscarriage, premature birth/low birth weight, heart disease, dementia, mental health, obesity and, many other conditions. Air pollution is the biggest environmental threat to public health, second only to smoking. At a cost £1bn per year to our NHS, air pollution is draining our resources, straining our health system and cutting short almost 2000 lives a year in Wales. It is a public health crisis. Air pollution also has a damaging impact on nature, and emissions from pollutants also contribute to climate change, worsening the climate and nature emergency that we urgently face. Healthy Air Cymru (HAC) brings together organisations that share a common vision for a cleaner and greener Wales. We want our nation

to be a better place, where people have the right to breathe clean air and do not have to suffer from the harmful effects of air pollution.

We raise awareness of the impact of poor air quality on our everyday lives. We aim to shape the conversation in Wales about how we tackle these problems and influence policy decisions; to make the case for practical local solutions to reduce air pollution. We have campaigned for a 'Clean Air' Act and since 2017 calling for it to include: - Enshrine in law WHO air quality guidelines - Mandate the Welsh Government to produce a statutory air quality strategy every 5 years - Provide a statutory duty on local authorities to appropriately monitor and assess air pollution, and take action against it - Introduce a 'right to breathe' whereby local authorities are obliged to inform vulnerable groups when certain levels breach recommended guidance The Welsh Government has stated that the Environment Bill will address all these areas, but regulations and implementation will be key. We support the principles of the Bill.

## **What are your views on the Bill's provisions (set out according to sections below), in particular are they workable and will they deliver the stated policy intention?**

### **National air quality targets (sections 1 to 7)**

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In sections 1-7 the Bill provides Welsh Ministers with new powers to set, review and monitor targets for different pollutants. Section 1 gives Ministers wide scope to set targets on any pollutant at any time in the future through regulations, whilst section 2 gives a specific requirement to set target(s) on PM2.5.

### **The health and environmental impact of different pollutants**

In the 2020 Clean Air Plan - Healthy Air, Healthy Wales the Welsh Government committed to focussing on a wide range of pollutants, including nitrogen dioxide (NO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>2.5</sub>/PM<sub>10</sub>), ozone (O<sub>3</sub>), sulphur dioxide (SO<sub>2</sub>) and benzo[a]pyrene (B[a]P). These were all highlighted as priorities where action would be needed to reduce levels. The World Health Organization have published new guidelines for not only particulate matter, but NO<sub>2</sub> and O<sub>3</sub> as well.

### **Particulate matter**

Particulate matter consists of fine particles that, once in the air, are harmful to human health. They can be classified as either particles with a diameter of less than 10 micrometres (PM<sub>10</sub>) or even smaller, as PM<sub>2.5</sub> (particles with a diameter of less than 2.5 micrometers). PM<sub>2.5</sub> is more harmful as it can penetrate deeper

into the lungs and enter the bloodstream, causing blood vessel walls to narrow and harden over time, increasing blood pressure and strain to your heart, even causing blood clotting. Particulate matter can cause more long-term damage to the health of people with existing heart and lung conditions, elderly people, pregnant women and their unborn children, and the very young. The majority of air pollution early deaths are linked to

particulate matter pollution. Emissions of black soot from incomplete combustion are associated with effects on climate change. The top sources of PM<sub>2.5</sub> are domestic wood and coal burning (38%), industrial combustion (16%), road transport (exhaust emissions and tyre/brake wear) (12%) and use of solvents and industrial processes (13%). Particulate matter can come from natural sources such as wind-blown dust, sea salt, pollen and soil particles. It can travel long distances meaning that pollution from England and even parts of northern Europe can impact on levels in Wales.

Ammonia emissions from agriculture can react with other pollutants to form particulate matter. A recent study also found that agricultural emissions are responsible for more than a quarter of particle pollution in UK cities (Diagnosing domestic and transboundary sources of fine particulate matter (PM<sub>2.5</sub>) in UK cities using GEOS-Chem - ScienceDirect). The study found that particle pollution from the rest of Europe also affected the UK, especially the south and east of England, but less so than the impact from UK farming. UK agriculture was responsible for 38% of particle pollution in Leicester, 32% in Birmingham and 25% in London in 2019, according to the study. In each case, the contribution from rural agriculture was greater than all the sources within the cities themselves.

WHO states that there is no threshold below which PM<sub>2.5</sub> does not damage health (WHO Guidelines for Indoor Air Quality. World Health Organization. 2014. <https://rb.gy/8t50xc>). At present the law on PM<sub>2.5</sub> pollution in Wales says annual average concentrations cannot exceed 25µg/m<sup>3</sup> (micrograms per cubic metre of air), an incredibly high level of air pollution that thankfully hasn't been exceeded. Pre-2021 the WHO guideline was 10 µg/m<sup>3</sup>, and analysing 2019 air pollution data, Asthma + Lung UK Cymru was able to estimate that 1.9% care homes, 0.9% hospitals, 3.3% GPs and 1% schools were in areas above the limit. However, the new 2021 WHO guidelines have reduced the recommended PM<sub>2.5</sub> limit to 5 µg/m<sup>3</sup> due to dangers of these pollutants. Analysing the 2019 data again 100% of Welsh care homes, hospitals, GPs and schools are in areas where the levels are currently too high.

Reducing the particulate matter pollution levels will save lives. The 2023 joint report by British Heart Foundation Northern Ireland and the Irish Heart

Foundation (<https://www.bhf.org.uk/-/media/files/what-we-do/in-your-area-northern-ireland-pages/air-pollution-and-mortality-on-the-island-of-ireland-report.pdf?rev=7f884a2856784374928acb956f2706b9&hash=B6714D212095722B95909C93C2E03279>) estimated approximately 950 lives could be saved each year across the island of Ireland if PM<sub>2.5</sub> levels were reduced to 5.0 µg/m<sup>3</sup> – 382 in Northern Ireland and 564 in the Republic of Ireland. Air pollution levels are higher in Wales so a similar study if commissioned here would likely show even more deaths prevented.

## Nitrogen oxides

Nitrogen oxides comprises nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>), and as a group of pollutants they have significant impact on health and the environment. The top sources of NO<sub>2</sub> are road transport (34%), energy generation (22%), domestic and industrial combustion (19%) and other transport (17%).

Nitrogen dioxide causes inflammation of the airways, increased susceptibility to respiratory infections and to allergens. If someone already has a respiratory condition such as asthma and COPD, short term exposure could lead to exacerbations of the condition and hospitalisation.

Long term exposure can cause certain respiratory conditions including asthma, and is associated with mortality and morbidity. NO<sub>2</sub> and NO<sub>x</sub> impact on the environment by damaging crops and contributing to climate change.

At present the law on nitrogen dioxide (NO<sub>2</sub>) pollution in Wales says annual average concentrations cannot exceed 40 µg/m<sup>3</sup> (micrograms per cubic metre of air). In 2017 Welsh Government was taken to court by Client Earth due to these limits being exceeded in Cardiff, Caerphilly (Hafod Yr Ynys) and trunk roads. Action was taken to restrict vehicle access, demolish homes and reduce speeds to reduce these levels. The most recent DEFRA compliance assessment (on air in 2021) shows the South Wales Zone still failing to meet the NO<sub>2</sub> annual limit value ([https://uk-air.defra.gov.uk/library/annualreport/assets/documents/annualreport/air\\_pollution\\_uk\\_2021\\_Compliance\\_Assessment\\_Summary\\_Issue1.pdf](https://uk-air.defra.gov.uk/library/annualreport/assets/documents/annualreport/air_pollution_uk_2021_Compliance_Assessment_Summary_Issue1.pdf)), when this was meant to be met by 2010, or 2015 at the latest. Analysing 2019 air pollution data, Asthma + Lung UK Cymru was able to estimate NO<sub>2</sub> and PM<sub>2.5</sub> levels around care homes, libraries, sports grounds, hospitals, GPs and schools. The data showed that at least according to modelled data, none of these locations were in areas where NO<sub>2</sub> levels were exceeded.



In September 2021, the World Health Organization (WHO) published new Air Quality Guidelines (AQGs) reducing the recommended maximum annual average for NO<sub>2</sub> pollution to 10 µg/m, down from 40ug/m<sup>3</sup>. Meeting this level will be challenging with an estimated 21.7% of care homes, 22% of libraries, 18.9% of sports grounds, 26.1% of hospitals, 34.9% of GPs and 21.8% of schools being in areas of unsafe levels according to 2019 modelled data analysed by Asthma + Lung UK Cymru.

Given the new WHO guidelines on NO<sub>2</sub>, much reduced on health grounds, the Bill must also specify that new NO<sub>2</sub> targets must be set. This could for instance be as a section between 2 and 3. It should be noted that at the time the UK Environment Bill was being developed the WHO had not yet produced their updated AQGs.

## Ozone

Ozone is produced by the effect of sunlight on NO<sub>x</sub> and hydrocarbons (from combustion). High up in the stratosphere ozone keeps Wales safe from the radiation, but at ground level it can negatively impact on human health and the environment. O<sub>3</sub> can travel long distances and reach high concentrations far away from the original source of the original pollutants.

High ozone levels can be dangerous for people with existing respiratory conditions, worsening asthma symptoms and causing chest problems potentially resulting in hospitalisation. It negatively impacts the environment, affecting the growth of plants and reducing crop yields.

The target value for O<sub>3</sub> is 120 µgm<sup>-3</sup> as an 8-hour mean, not to be exceeded more than 25 times per year averaged over 3 years. In 2020 there were less than 10 exceedances ([https://airquality.gov.wales/sites/default/files/documents/2022-10/AQ-Wales-2021\\_English\\_Final.pdf](https://airquality.gov.wales/sites/default/files/documents/2022-10/AQ-Wales-2021_English_Final.pdf)).

In September 2021, the World Health Organization (WHO) published new Air Quality Guidelines (AQGs) the recommended 8 hour mean concentration (with 3-4 exceedances per year) to 100µg/m. They also proposed a 'Peak season' target of 60 µg/m defining this long-term target as the 'Average of daily maximum 8-hour mean O<sub>3</sub> concentration in the six consecutive months with the highest six-month running-average O<sub>3</sub>.' Both these new targets are needed to protect human health, but will be challenging to meet.

## Legislating for new targets

In the explanatory memorandum (EM 3.13) it states: “Our Programme for Government for 2021 to 2026 reiterated our commitment to introduce a Clean Air Act for Wales, consistent with World Health Organization (WHO) guidance and to extend the provision of air quality monitoring. This will include taking account of the latest scientific information, including the updated WHO guideline levels, alongside taking independent expert advice, to inform the development of new air quality targets.” and EM 14 states: ‘Pursuant to subsection (1), before making regulations under sections 1 or 2 Welsh Ministers must: (a) seek advice from persons they consider to be independent and have relevant expertise; and (b) have regard to scientific knowledge on air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution, including the World Health Organization guidelines for air quality, and the economic, technical and social analyses, and the feasibility of meeting targets.’ We welcome the commitment in the Bill to seek relevant advice and to have regard to scientific knowledge, and the references to the new WHO guidelines in the EM, but worry that there is nothing in the Bill to ensure that targets will be set to be consistent with WHO guidance, as committed to. In theory there would be nothing to prevent a Minister from choosing a much less rigorous target. It must be made clear in the Bill itself that the up to date WHO guidelines need to be the foundation of the target setting process, and that targets must be consistent with them - and must be met in the shortest time possible. We would like to see this captured on the face of the Bill, potentially listed in section 3, 5, 6 or become its own section.

We are disappointed that S.1(1) states that Ministers ‘may set long-terms targets’, whilst S.2(1) states that they ‘must’. We would like the Bill to capture in law the Welsh Government commitment to legislate to deliver the World Health Organization limits on air pollution and give citizens the ‘right to breathe clean air.’

New air pollution targets need to be set for all pollutants included in the 2021 guidelines, so we would like to see all the pollutants covered by section 1 required to have new targets, so S.1(1) would need to become ‘must’ rather than ‘may.’

We welcome the inclusion of section 5 and a reporting process that allows for Senedd scrutiny, but we are concerned about the time it would take for action to be taken. The targets will be set with regulations described in sections 1 and 2, but these targets may be for future dates rather than now. Delivering WHO limits on NO<sub>2</sub> and PM<sub>2.5</sub> will take many years, so the targets set by Ministers might be for 2035 or 2040, potentially with some interim targets in the years preceding this. Therefore, the timeline described in section 5 wouldn’t start until

many years into the future. We would therefore like to see S.5(2) amended to require Ministers to report on progress on air pollution targets annually rather than simply the 'reporting date.'

Some targets might be set immediately, but even with those we are concerned about the speed of reporting. S.5(4) states 'Where the Welsh Ministers make a statement that a target has not

been met, the Welsh Ministers must, before the end of 12 months beginning with the date on which the statement is laid, lay before the Senedd, and publish, a report.'

With almost 2,000 lives cut short every year due to air pollution, we worry that 12 months to publish a report setting out what the Welsh Government will do to correct air pollution exceedance is too long. We would like to see this reduced to 6 months, if not further.

Finally, it is unclear at what an individual, institution or organisation would be able to seek legal redress if the legal limits continued to be exceeded. Through membership of the EU, citizens previously had this right through the EU Ambient Air Quality Directive 2008/50/EC. S.5(5)(b) states that a report must set out the steps the Welsh Ministers have taken, or intend to take, to ensure the specified standard is achieved as soon as reasonably practicable.' We are concerned this wording is unclear and would like the Bill to set a timescale, for example 'within 6 months.'

### **Promoting awareness about air pollution (section 8)**

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Welsh Government should run targeted informational campaigns on the environmental and health impacts of air pollution and burning, as well as providing advice and support to suppliers and households on how to reduce the moisture content of wood.

In promoting awareness about air pollution, Welsh Government should also commit to promoting awareness of behaviour-change solutions that can reduce air pollution. Just as public bodies will be required to have due regard for the impact on air quality, raising awareness of air pollution should be linked to promotion of healthy behaviours to improve our air quality such as active travel and the need for modal shift.

Research (Physical Activity through Sustainable Transport Approaches, 2019) has shown that social factors impact on behaviours. Those who valued low air pollution exposure and low environmental impacts, amongst others values,

tended to walk more; “this suggests that if people could see the importance of these values, they may be encouraged to walk more” (Imperial College London News, 19 September 2019)

The current Net Zero Plan to reduce passenger miles by 10% and increase the modal share for active travel and public transport to 39% by 2030 are ambitious. However, regulatory tools within this legislation combined with a whole-system approach to promoting awareness on air pollution and modal shift will go some way towards meeting our existing Net Zero targets.

### **National air quality strategy (sections 9 to 11)**

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We worked with Welsh Government to develop the 2020 Clean Air Plan - Healthy Air, Healthy Wales - and have called for the successor documents to be statutory strategies with the added importance and status that this would bring.

Sections 9 to 11 are therefore welcomed in principle but we are concerned about the way that the Bill attempts to achieve this.

The Bill attempts to amend the Environment Act 1995 (section 80) in order to state that the powers to make a ‘national air quality strategy’ in Wales would now rest with Welsh Ministers at the Senedd, rather than a Secretary of State and the UK Parliament. This provision was made possible by the UK Environment Act 2021 amending the same section to specify that the UK Government would use this power to make a nation air quality strategy.

This seems a very unusual way to draft a Bill and we are concerned about unforeseen consequences. We would therefore like to see this section redrafted so that it is clear that the Environment (Air Quality and Soundscape) Bill is granting Welsh Ministers clear powers to develop a Clean Air strategy with a clear review process defined in the Bill. Section 22 provides a useful template that a revised Section 9 could follow.

If Section 9 was rewritten this would require changes to Section 10 and 11 also. Whether the wording stays in the amended Environment Act 1995 or preferably moves to this Bill, we are concerned that s.11(1) is not strong enough. It states ‘the following persons must have regard to the policies.’ We worry that the strategy could be ignored by public authorities if it is only ‘have regard to.’ We would propose ‘must reflect the policies’ or something similar.

### **Air quality regulations (section 12)**

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We don’t have any specific comments on this section.

## **Local air quality management (sections 13 to 15)**

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The current process of monitoring national and local air pollution is inadequate, creates confusion for the public and gives a false picture of the air pollution challenges that Wales faces. The existence of two different monitoring systems - one based on a small number of monitors for previous EU directive purposes and local monitoring based largely on diffusion tubes is unhelpful. When the Welsh Government faced legal action for NO<sub>2</sub> exceedances this was due to national monitoring. Welsh Government has taken action to reduce these, but there are other areas with exceedances where monitoring is not taking place.

Welsh Government recognise in the explanatory memorandum, (EM 3.127) that the current system is not working so section 14 is designed to tackle these issues. We welcome the need for local authorities to require an annual review of local air quality, and to need to commit to a compliance date agreed with Welsh Government. As EM 3.133 states the current framework only requires local authorities to develop actions 'in pursuit' of compliance. This could lead to the same air quality management areas remaining for years.

What is unclear from the Bill and the explanatory memorandum is how the local authority reporting cycle aligns with Welsh Government's reporting cycle to the Senedd. If a national monitoring network is established and is reporting data to both Welsh Government and to local authorities, should S.13(3) still be a local authority requirement or should the duty lie with Welsh Government?

S.5(4) requires the Welsh Government to make a statement within 12 months of a target not being met. Would Section 14 need to be aligned with section 5 to ensure that Welsh Ministers had this information before they make their statement to the Senedd?

Finally, the current local air quality management is struggling based on the current air pollution exceedances. As the targets are reduced to meet the World Health Organization limits, there will be a lot more exceedances in both NO<sub>2</sub> and PM<sub>2.5</sub>.

## **Smoke control (sections 16 to 18)**

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We welcome the inclusion of the 3 smoke control sections (S.16-18), but we are concerned that they don't go far enough.

### **The challenge of domestic burning**

Domestic burning is the burning of solid fuels in the household for purposes such as cooking, heating, or lighting, for example log burners or bonfires.

National Atmospheric Emissions Inventory states that domestic burning of solid fuels is the largest single contributing source of the UK's levels of PM2.5, producing as much as transport and industry combined (NAEI, <https://naei.beis.gov.uk/>)

Despite improvements in their design, academic research has found that even homes with “eco” wood burners are three times more polluted than those without ([Atmosphere | Free Full-Text | Indoor Air Pollution from Residential Stoves: Examining the Flooding of Particulate Matter into Homes during Real-World Use \(mdpi.com\)](#)). In fact, wood burners and open fires produce more harmful PM2.5 than road transport in the UK. The government's own data has suggested that emissions of PM2.5 from domestic heating has increased by 125% in 10-years, implying a significant increase in the use of domestic wood burners ([Emissions of air pollutants in the UK - Summary - GOV.UK \(www.gov.uk\)](#)).

Often, domestic burning is for aesthetic purposes and only 1% of Welsh households rely on burning solid fuels as their primary source of heating (Welsh Housing Conditions Survey, Welsh Government, <https://www.gov.wales/welsh-housing-conditions-survey>).

Wood which hasn't been dried out and traditional bituminous coal are some of the most polluting fuels. Less harmful alternatives include dried wood and authorised biomass fuels manufactured into briquettes ([Reducing Emissions from Domestic Burning of Solid Fuels, Welsh Government. https://rb.gy/c7u40i](#)).

What action would we like to see?

Not all the actions needed require primary legislation, with Welsh Government already having powers, and some of it being down to behaviour change.

- **Better fuel:** A ban on sales of wet wood and suppliers should also be legally required to maintain wood at a moisture content of 20% or less, this should be regulated with an administered certification scheme to carry out robust testing and auditing. There should also be a ban on the sale of traditional bituminous coal, and a move to greener more cost-effective alternatives.

- **Better appliances:** Welsh Government should commit to regulation which ensures only the most efficient stoves are available to buy and are fitted and maintained regularly by a competent professional.

- **Better information:** Welsh Government should run targeted informational campaigns on the environmental and health impacts of burning, as well as

providing advice and support to suppliers and households on how to reduce the moisture content of wood.

- **Moving away from domestic burning:** To ensure a reduction of emissions from domestic burning there should be long term ambitions to move away from domestic burning altogether. Any policies must be accompanied by support for households to move to safer, cleaner alternatives to domestic burning.

### What changes will the Bill make?

In EM 3.153 Welsh Government states that it is their objective to 'improve the use and implementation of smoke control legislation to reduce air pollution for the benefit of current and future generations.' We support this objective and agree that these sections will make a positive impact. The change from a criminal to a civil offence is a positive one and we agree that it will help local authorities to enforce the current rules.

However, we are unclear whether the Welsh Government do want to expand smoke control areas and protect public health or not. At present there are only 4 local authorities operating smoke control areas and neither the Explanatory Memorandum or the Bill makes it clear whether the Welsh Government would encourage local authorities to apply for them. In theory new, lower air pollution targets might require local authorities to introduce smoke control areas in order to meet the targets, but the Bill as drafted doesn't appear to give Ministers the power to roll them out Wales-wide. As stated earlier domestic burning is a huge public health issue, in particular for people living close by. It would be possible to have a localised PM2.5 spike on a road, street or even a village that wouldn't be picked up by modelled air pollution, only if a monitor was nearby. If air pollution levels elsewhere in the city or county were not poor, then a smoke control area might not be considered.

We would like the Bill to roll out smoke control restrictions across the whole nation, giving everyone the protection, they need from the dangers of burning the most polluting fuels. Regulations could provide for a system of exemptions for people who live in very remote areas, but domestic burning in the rest of Wales should be minimised and only using dry/smokeless fuels.

We are concerned that section 16 and schedule 1 appear to largely duplicate the existing legislation for England in the Clean Air Act 1993 rather than develop something bespoke for Wales. We would like those powers to be transferred into this Environment Bill to create a new legal landscape around clean air in Wales instead.

## Vehicle emissions (sections 19 to 21)

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Vehicle emissions, particularly from private cars, are one of the greatest contributors to air pollution. As a result, there is an inevitable link between the number of vehicles on our roads and the quality of our air. The number of people choosing to travel actively will be important in tackling air pollution and reducing vehicle emissions.

Existing targets in the Net Zero Plan to reduce emissions by 22% between 2019 and 2025, and by 98% by 2040, and highlights the need for this legislation to utilise all tools at Welsh Government's disposal including the introduction of clean air zones under existing powers in addition to exercising trunk road charging that would be introduced in this bill.

### Trunk Road charging

Sections 19 and 20 give Welsh Ministers power to introduce vehicle charging on trunk roads where air pollution continues to exceed. The Bill doesn't cover clean air zones or towns and cities due to the Senedd not having legislative competence in this area. Welsh Ministers already have power to introduce clean air zones due to the UK Transport Act 2000.

Vehicle charging through Clean Air Zones has been used to reduce air pollution in cities across Europe and in England. London has the most successful one (<https://www.london.gov.uk/programmes-strategies/environment-and-climate-change/environment-and-climate-change-publications/inner-london-ultra-low-emission-zone-expansion-one-year-report>) with benefits including:

- An almost 50 percent reduction in toxic Nitrogen Dioxide (NO<sub>x</sub>) pollution in central London
- Pollution has decreased five times faster in London than anywhere else in the UK (between 2016 and 2020)
- One million hospitalisations averted in total by 2050
- 94 percent of vehicles seen driving in the current zone now meet the strict emissions standards on an average day, significantly higher than the 39 percent in 2017 when the ULEZ was first announced.

In 2018 Welsh Government introduced 50mph restrictions on 5 trunk road locations. In all but one location, air pollution limits have been reduced below the current NO<sub>2</sub> legal limits. However, if air pollution limits are reduced in the short term, more radical action will be needed.



Welsh Government are seeking powers to introduce vehicle charging on trunk roads to help reduce air pollution further. We support Clean Air Zones and vehicle charging, but we are unsure whether charging on trunk roads will have the desired impact. A city centre Clean Air Zone works on the basis that people can substitute cars for public or active travel to get into the centre. A trunk road clean air zone might not work as well with the risk that traffic and air pollution are diverted onto smaller, residential roads rather than on public transport.

### Vehicle idling

We strongly welcome S.21 amendments to the Environment Act 1995 to make stationary idling an offence under the S.42 of the Road Traffic Act 1988. Every minute, an idling car produces enough exhaust emissions to fill 150 balloons with harmful chemicals, including cyanide, NOx and PM2.5.

A 2016 study found that one factor in people choosing to make journeys on foot was environmental aesthetics, including air quality and fresh air (Dadpour et al. 2016, Int J Environ Res Public Health: 731). With cleaner air we can encourage people to travel actively and promote the benefits of outside physical activity.

However, we would welcome clarity on how the Welsh Government expects penalties for stationary idling to be issued, and which bodies will be tasked with the enforcement of the offence.

### **National soundscapes strategy (sections 22 and 23)**

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We welcome the commitment to produce and publish a Soundscapes Strategy. We were initially surprised to see noise and sound added to what would have been a Clean Air Bill, but can now see the benefits to advance the discourse with respect to the role that soundscapes have to play in air pollution, air quality, and public health. This is an encouraging step from the Welsh Government as it shows not only an interest but a desire and commitment to take tangible action to both improve the environment and public health.

We welcome the commitment within the Bill that states that local authorities can use existing soundscape strategies, as considerable time and resource would have been spent on producing them to date.

We have several questions regarding the proposed actions time frames. While it is reasonable to review the strategy every five years, the Bill provides scant detail as to what actions will be firmly taken during this review period. While the Bill mentions in S.22(6)(a)(i) that Ministers must 'have regard to scientific knowledge

relating to soundscapes', it is unclear what actions will be taken by Ministers to ensure that the most appropriate scientific knowledge will be sought.

S.22(6)(a)(ii) of the Bill refers to Minister having regard to 'recent strategic noise maps.' We wish to highlight that under S.7(2) Environmental Noise (Wales) Regulations 2006 strategic noise maps need to be reviewed every five years. In local authorities where strategic noise maps have not been reviewed within the previous 12 – 24 months, they are unlikely to have considered lifestyle changes that have occurred over the past three years owing to the COVID-19 pandemic.

Over the previous three years, more people are working from home, there are more mixed-use developments and conversions, while more and more people are relying on home deliveries etc. All these changes will have made a considerable impact on strategic noise maps, with more recent consideration to be afforded to noise impacts on public health.

We are also somewhat concerned about the proposed review period. S.22(5)(a) indicates that the Bill is to be reviewed 'within 5 years of the publication of the strategy and (b) within each period of 5 years beginning with the day on which the Welsh Ministers completed their most recent review under this subsection.' We believe such a review period to be reasonable. However, there is a lack of in the explanatory memorandum, on several items such as how the impacts on soundscapes are to be measured throughout the five-year period, who will be responsible for monitoring this data, how local monitoring could be coordinated nationally, and who will be responsible for leading the soundscapes strategy review. Furthermore, S.22(7) enables the Minister to alter the review period outlined in (5) to enable the Minister to potentially prolong the period in which a review must be concluded. We are concerned that such a clause would enable the review period to be extended beyond the 5 years. We would like such a review period to be set at 5 years maximum and that should the Minister wish to review the soundscapes strategy sooner, S.22(5) enables the Minister to do so. Therefore, we wish to question the decision to include (7) if not for the sole purpose of enabling the Minister to prolong the review period and wish to argue that S.22(7) be removed from the Bill.

While S.24 enables Ministers to change the intervals at which strategic noise maps must be made and adopted under regulation 7(2) of the Environmental Noise (Wales) Regulations 2006 and to change the period within which reviews of noise action plans under regulation 17(3)(b) of those Regulations must take place, para 105 provides no further information as to under what circumstances this would take place. We wish to question the decision to include S.24 if not for the sole purpose of enabling the Minister to prolong the review period by which

strategic noise maps are to be reviewed and wish to argue that S.22(7) be removed from the Bill.

S.23 (1) of the Bill, and expanded in EM 101 in the explanatory memorandum, highlights that local authorities and relevant Welsh public authorities are required to 'have regard to the policies in the national strategy on soundscapes published under section 22 when exercising any function of a public nature that could affect soundscapes in Wales.' We are concerned that this requirement does not go far enough as 'having regard' does not impose a mandatory requirement for the local authority or relevant Welsh public authority to abide by the policies in the national strategy on soundscapes when exercising their duties. Amidst competing, and often conflicting priorities, local authorities could consider, but ultimately dismiss, the policies in the national soundscapes strategy in exercising their duties. We are in favour of strengthening this aspect of the Bill to include 'having due regard

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### **Strategic noise map and noise action plans (sections 24)**

Nothing further to add to the above.

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### **General provisions (sections 25 to 28);**

Nothing to add to this section

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### **What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?**

As mentioned in previous sections there are some areas where it could be clearer what was a Welsh Government vs local authority responsibility.

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### **How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?**

In many ways the Bill gives too wide-ranging powers, but there are sections where these powers don't go far enough. Sections 1 and 2 for examples give powers to set targets but Ministers are not constrained by how ambitious or how urgent these targets are in improving air quality. As stated earlier, we would like to see the World Health Organization limits recognise somewhere within the legislation itself rather than just referenced in the appendix. However, there are other areas where ministerial powers are constrained. On smoke control areas, the power to establish one seems to remain with the local authority, whilst S.19(1)(b) places constraints on when Ministers would be able to introduce trunk road charging.

## **Are any unintended consequences likely to arise from the Bill?**

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If the Bill does not go far enough there is the consequence that it will take many years to find legislative time to pass another Environment Bill.

## **What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?**

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Welsh Government has set out a detailed breakdown of the estimated costs of the Bill in pages 79-156 in the Explanatory Memorandum. The calculations would have been done with a clear methodology, and we support the investments in monitoring, consultancy support, awareness campaigns and governance, but there are some areas where the amounts proposed seem far too low.

### **LAQM**

The EM proposes a budget of £1 million per year to provide a revenue/capital allocation to assist councils in meeting the new targets locally. This seems very small if it is truly going to make a difference locally. In 2019 Welsh Government allocated a fund of £20 million to tackle air pollution mostly directed at Cardiff and Caerphilly councils. The cost of road and traffic changes and the compulsory purchasing of houses were huge and this fund also helped with better monitoring and purchasing electric buses. £1 million for all of Wales would make very little difference, so doesn't seem very realistic.

### **Smoke control areas**

The total budget proposed for this is set out in Table 9 and varies from £15.8k to £18.4k. There is a missing row where it states 'local authority costs to follow guidance', but the row marked 'local authority costs to enforce new regime' is only £18.4k. If domestic burning is to be tackled locally and then this will require a dramatically increased enforcement provision with staff operating day and night to investigate complaints of wet wood or burning, and technology to identify the sources. This could potentially cost millions of pounds every year.

### **Trunk roads**

The EM only includes a one-off cost of £30k for the trunk road powers in 2024/25. This might be the cost of the civil service time to develop the guidance, but it seems disingenuous to say that Road User Charging will be completely revenue neutral. In the long term this might be the case, but the preparation and introduction years would be expensive with the costs only recovered later.

## Statutory idling

The EM proposes a budget of only £16.4k for 2024/25 with no further costs. There is a missing row where it states 'local authority costs to follow guidance.' Similar to smoke control areas, this is an area where most councils would need to employ new staff so these costs will be large. Table 11 states that 'a level of support will be available from the LAQM Support Fund', but as stated earlier, we worry this fund is far too small.

## **Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?**

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N/A

## AQS 02 Asthma and Lung UK

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Senedd Cymru | Welsh Parliament

**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

**Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment (Air Quality and Soundscapes) (Wales) Bill**

Ymateb gan Asthma and Lung UK | Evidence from Asthma and Lung UK

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### General principles

What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

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Asthma + Lung UK Cymru At some point in our lives, one in five of us will have a lung disease. Across the UK, millions more are at risk. Asthma + Lung UK Cymru are the only UK charity looking after the lungs of Wales, and in this manifesto we aim to bring the needs of people with lung conditions to the forefront of policy-making.

As we've seen with the COVID-19 crisis, acute respiratory symptoms can bring countries to a standstill and cause thousands of deaths. The recent pandemic has highlighted the need for clear and robust guidelines and support for people with a lung condition, but has also shone a spotlight on the patchy provision of support and treatment for everyone who has a respiratory disease.

Through research, we can find new ways to prevent, manage (and self-manage), treat and eventually cure lung diseases.

With support, we provide for people who struggle to breathe the skills, knowledge and confidence to take control of their lives.

Together, we're campaigning for clean air, better services and investment in research and innovation.

One day, everyone will breathe clean air with healthy lungs. Only through action and commitment to change can we make that happen.

General principles

Thank you for the opportunity to respond to the Environment (Air Quality and Soundscapes) Bill consultation. We welcome the need for clean air legislation and have been calling for a 'Clean Air Act since 2017 alongside Healthy Air Cymru partners.

There is no safe level of air pollution. An air pollutant is any substance in the air that could harm people. Particulate matter, known as PM, and nitrogen dioxide are particularly damaging. We also know that deprived communities are often in areas with higher levels of air pollution, contributing to health inequalities.

When people are exposed to high pollution levels, for example on a busy road or during a high pollution episode, they breathe in these toxic materials into their lungs. As well as longer term impacts, many people initially experience immediate symptoms such as irritated airways, feeling out of breath and coughing.

Poor air quality has been linked to several conditions, with growing emerging evidence that highlights the high levels of air pollution impacting every level of society by increasing the chances of lung cancer, childhood asthma, COPD, miscarriage, premature birth/low birth weight, heart disease, dementia, mental health, obesity and, many other conditions.

Air pollution is the biggest environmental threat to public health, second only to smoking. At a cost £1bn per year to our NHS, air pollution is draining our resources, straining our health system and cutting short almost 2000 lives a year in Wales. It is a public health crisis.

Air pollution also has a damaging impact on nature, and emissions from pollutants also contribute to climate change, worsening the climate and nature emergency that we urgently face.

The Welsh Government has stated that the Environment Bill will address all these areas, but regulations and implementation will be key. We support the principles of the Bill.

### **What are your views on the Bill's provisions (set out according to sections below), in particular are they workable and will they deliver the stated policy intention?**

National air quality targets (sections 1 to 7)

In sections 1-7 the Bill provides Welsh Ministers with new powers to set, review and monitor targets for different pollutants. Section 1 gives Ministers wide scope

to set targets on any pollutant at any time in the future through regulations, whilst section 2 gives a specific requirement to set target(s) on PM2.5.

### The health and environmental impact of different pollutants

In the 2020 Clean Air Plan - Healthy Air, Healthy Wales the Welsh Government committed to focussing on a wide range of pollutants, including nitrogen dioxide (NO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>2.5</sub>/PM<sub>10</sub>), ozone (O<sub>3</sub>), sulphur dioxide (SO<sub>2</sub>) and benzo[a]pyrene (B[a]P). These were all highlighted as priorities where action would be needed to reduce levels. The World Health Organisation have published new guidelines for not only particulate matter, but NO<sub>2</sub> and O<sub>3</sub> as well.

### Particulate matter

Particulate matter consists of fine particles that, once in the air, are harmful to human health. They can be classified as either particles with a diameter of less than 10 micrometers (PM<sub>10</sub>) or even smaller, as PM<sub>2.5</sub> (particles with a diameter of less than 2.5 micrometers). PM<sub>2.5</sub> is more harmful as it can penetrate deeper into the lungs and enter the bloodstream, causing blood vessel walls to narrow and harden over time, increasing blood pressure and strain to your heart, even causing blood clotting. Particulate matter can cause more long term damage to the health of people with existing heart and lung conditions, elderly people, pregnant women and their unborn children, and the very young. The majority of air pollution early deaths are linked to particulate matter pollution. Emissions of black soot from incomplete combustion are associated with effects on climate change.

The top sources of PM<sub>2.5</sub> are domestic wood and coal burning (38%), industrial combustion (16%), road transport (exhaust emissions and tyre/brake wear) (12%) and use of solvents and industrial processes (13%). Particulate matter can come from natural sources such as wind-blown dust, sea salt, pollen and soil particles. It can travel long distances meaning that pollution from England and even parts of northern Europe can impact on levels in Wales.

Ammonia emissions from agriculture can react with other pollutants to form particulate matter. A recent study also found that agricultural emissions are responsible for more than a quarter of particle pollution in UK cities (Diagnosing domestic and transboundary sources of fine particulate matter (PM<sub>2.5</sub>) in UK cities using GEOS-Chem - ScienceDirect). The study found that particle pollution from the rest of Europe also affected the UK, especially the south and east of England, but less so than the impact from UK farming. UK agriculture was



responsible for 38% of particle pollution in Leicester, 32% in Birmingham and 25% in London in 2019, according to the study. In each case, the contribution from rural agriculture was greater than all the sources within the cities themselves.

WHO states that there is no threshold below which PM<sub>2.5</sub> does not damage health (WHO Guidelines for Indoor Air Quality. World Health Organisation. 2014. <https://rb.gy/8t50xc>). At present the law on PM<sub>2.5</sub> pollution in Wales says annual average concentrations cannot exceed 25µg/ m<sup>3</sup> (micrograms per cubic metre of air), an incredibly high level of air pollution that thankfully hasn't been exceeded. Pre-2021 the WHO guideline was 10 µg/ m<sup>3</sup>, and analysing 2019 air pollution data, Asthma + Lung UK Cymru was able to estimate that 1.9% care homes, 0.9% hospitals, 3.3% GPs and 1% schools were in areas above the limit. However, the new 2021 WHO guidelines have reduced the recommended PM<sub>2.5</sub> limit to 5 µg/m due to dangers of these pollutants. Analysing the 2019 data again 100% of Welsh care homes, hospitals, GPs and schools are in areas where the levels are currently too high.

Reducing the particulate matter pollution levels will save lives. The 2023 joint report by British Heart Foundation Northern Ireland and the Irish Heart Foundation (<https://www.bhf.org.uk/-/media/files/what-we-do/in-your-area-northern-ireland-pages/air-pollution-and-mortality-on-the-island-of-ireland-report.pdf?rev=7f884a2856784374928acb956f2706b9&hash=B6714D212095722B95909C93C2E03279>) estimated approximately 950 lives could be saved each year across the island of Ireland if PM<sub>2.5</sub> levels were reduced to 5.0 µg/m<sup>3</sup> – 382 in Northern Ireland and 564 in the Republic of Ireland. Air pollution levels are higher in Wales so a similar study if commissioned here would likely show even more deaths prevented.

## Nitrogen oxides

Nitrogen oxides comprises nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>), and as a group of pollutants they have significant impact on health and the environment. The top sources of NO<sub>2</sub> are road transport (34%), energy generation (22%), domestic and industrial combustion (19%) and other transport (17%).

Nitrogen dioxide causes inflammation of the airways, increased susceptibility to respiratory infections and to allergens. If someone already has a respiratory condition such as asthma and COPD, short term exposure could lead to exacerbations of the condition and hospitalisation. Long term exposure can cause certain respiratory conditions including asthma, and is associated with mortality and morbidity. NO<sub>2</sub> and NO<sub>x</sub> impact on the environment by damaging crops and contributing to climate change.

At present the law on nitrogen dioxide (NO<sub>2</sub>) pollution in Wales says annual average concentrations cannot exceed 40 µg/m<sup>3</sup> (micrograms per cubic metre of air). In 2017 Welsh Government was taken to court by Client Earth due to these limits being exceeded in Cardiff, Caerphilly (Hafod Yr Ynys) and trunk roads. Action was taken to restrict vehicle access, demolish homes and reduce speeds to reduce these levels. The most recent DEFRA compliance assessment (on air in 2021) shows the South Wales Zone still failing to meet the NO<sub>2</sub> annual limit value ([https://uk-air.defra.gov.uk/library/annualreport/assets/documents/annualreport/air\\_pollution\\_uk\\_2021\\_Compliance\\_Assessment\\_Summary\\_Issue1.pdf](https://uk-air.defra.gov.uk/library/annualreport/assets/documents/annualreport/air_pollution_uk_2021_Compliance_Assessment_Summary_Issue1.pdf)), when this was meant to be met by 2010, or 2015 at the latest. Analysing 2019 air pollution data, Asthma + Lung UK Cymru was able to estimate NO<sub>2</sub> and PM<sub>2.5</sub> levels around care homes, libraries, sports grounds, hospitals, GPs and schools. The data showed that at least according to modelled data, none of these locations were in areas where NO<sub>2</sub> levels were exceeded.

In September 2021, the World Health Organization (WHO) published new Air Quality Guidelines (AQGs) reducing the recommended maximum annual average for NO<sub>2</sub> pollution to 10 µg/ m<sup>3</sup>, down from 40ug/ m<sup>3</sup>. Meeting this level will be challenging with an estimated 21.7% of care homes, 22% of libraries, 18.9% of sports grounds, 26.1% of hospitals, 34.9% of GPs and 21.8% of schools being in areas of unsafe levels according to 2019 modelled data analysed by Asthma + Lung UK Cymru.

Given the new WHO guidelines on NO<sub>2</sub>, much reduced on health grounds, the Bill must also specify that new NO<sub>2</sub> targets must be set. This could for instance be as a section between 2 and 3. It should be noted that at the time the UK Environment Bill was being developed the WHO had not yet produced their updated AQGs.

## Ozone

Ozone is produced by the effect of sunlight on NO<sub>x</sub> and hydrocarbons (from combustion). High up in the stratosphere ozone keeps Wales safe from the radiation, but at ground level it can negatively impact on human health and the environment. O<sub>3</sub> can travel long

distances and reach high concentrations far away from the original source of the original pollutants.

High ozone levels can be dangerous for people with existing respiratory conditions, worsening asthma symptoms and causing chest problems

potentially resulting in hospitalisation. It negatively impacts the environment, affecting the growth of plants and reducing crop yields.

The target value for O<sub>3</sub> is 120 µg/m<sup>3</sup> as an 8-hour mean, not to be exceeded more than 25 times per year averaged over 3 years. In 2020 there were less than 10 exceedances ([https://airquality.gov.wales/sites/default/files/documents/2022-10/AQ-Wales-2021\\_English\\_Final.pdf](https://airquality.gov.wales/sites/default/files/documents/2022-10/AQ-Wales-2021_English_Final.pdf)).

In September 2021, the World Health Organization (WHO) published new Air Quality Guidelines (AQGs) the recommended 8 hour mean concentration (with 3-4 exceedances per year) to 100 µg/m<sup>3</sup>. They also proposed a 'Peak season' target of 60 µg/m<sup>3</sup> defining this long term target as the 'Average of daily maximum 8-hour mean O<sub>3</sub> concentration in the six consecutive months with the highest six-month running-average O<sub>3</sub>.' Both these new targets are needed to protect human health, but will be challenging to meet.

#### Legislating for new targets

The explanatory memorandum at Point 3.13 says “ Our Programme for Government for 2021 to 2026 reiterated our commitment to introduce a Clean Air Act for Wales, consistent with World Health Organisation (WHO) guidance and to extend the provision of air quality monitoring. This will include taking account of the latest scientific information, including the updated WHO guideline levels, alongside taking independent expert advice, to inform the development of new air quality targets.” and the EM states (eg Point 14, Annex 1): ‘Pursuant to subsection (1), before making regulations under sections 1 or 2 Welsh Ministers must: (a) seek advice from persons they consider to be independent and have relevant expertise; and (b) have regard to scientific knowledge on air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution, including the World Health Organisation guidelines for air quality, and the economic, technical and social analyses, and the feasibility of meeting targets.’ We welcome the commitment in the Bill to seek relevant advice and to have regard to scientific knowledge, and the references to the new WHO guidelines in the EM, but worry that there is nothing in the Bill to ensure that targets will be set to be consistent with WHO guidance, as committed to. In theory there would be nothing to prevent a Minister from choosing a much less rigorous target. It must be made clear in the Bill itself that the up to date WHO guidelines need to be the foundation of the target setting process, and that targets must be consistent with them - and must be met in the shortest time possible. We would like to see this captured on the face of the Bill, potentially listed in section 3, 5, 6 or become its own section..

We are disappointed that s1(1) states that Ministers 'may set long-terms targets', whilst s2(1) states that they 'must'. We would like the Bill to capture in law the Welsh

Government commitment to legislate to deliver the World Health Organization limits on air pollution and give citizens the 'right to breathe clean air.'

New air pollution targets need to be set for all pollutants included in the 2021 guidelines, so we would like to see all the pollutants covered by section 1 required to have a new targets, so s1(1) would need to become 'must' rather than 'may'

We welcome the inclusion of section 5 and a reporting process that allows for Senedd scrutiny, but we are concerned about the time it would take for action to be taken. The targets will be set with regulations described in sections 1 and 2, but these targets may be for future dates rather than now. Delivering WHO limits on NO2 and PM2.5 will take many years, so the targets set by Ministers might be for 2035 or 2040, potentially with some interim targets in the years preceding this. Therefore the timeline described in section 5 wouldn't start until many years into the future. We would therefore like to see s.5(2) amended to require Ministers to report on progress on air pollution targets annually rather than simply the 'reporting date.'

Some targets might be set immediately, but even with those we are concerned about the speed of reporting. s.5(4) states 'Where the Welsh Ministers make a statement that a target has not been met, the Welsh Ministers must, before the end of 12 months beginning with the date on which the statement is laid, lay before the Senedd, and publish, a report.'

With almost 2,000 lives cut short every year due to air pollution, we worry that 12 months to publish a report setting out what the Welsh Government will do to correct air pollution exceedance is too long. We would like to see this reduced to 6 months, if not further.

Finally It is unclear at what an individual, institution or organisation would be able to seek legal redress if the legal limits continued to be exceeded. Through membership of the EU, citizens previously had this right through the EU Ambient Air Quality Directive 2008/50/EC. s.5(5)(b) states that a report must set out the steps the Welsh Ministers have taken, or intend to take, to ensure the specified standard is achieved as soon as reasonably practicable.' We are concerned this wording is unclear and would like the Bill to set a timescale, for example 'within 6 months.'

## Promoting awareness about air pollution (section 8)

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Welsh Government should run targeted informational campaigns on the environmental and health impacts of air pollution and burning, as well as providing advice and support to suppliers and households on how to reduce the moisture content of wood.

In promoting awareness about air pollution, Welsh Government should also commit to promoting awareness of behaviour-change solutions that can reduce air pollution. Just as public bodies will be required to have due regard for the impact on air quality, raising

awareness of air pollution should be linked to promotion of healthy behaviours to improve our air quality such as active travel and the need for modal shift.

Research (Physical Activity through Sustainable Transport Approaches, 2019) has shown that social factors impact on behaviours. Those who valued low air pollution exposure and low environmental impacts, amongst others values, tended to walk more; “this suggests that if people could see the importance of these values, they may be encouraged to walk more” (Imperial College London News, 19 September 2019)

The current Net Zero Plan to reduce passenger miles by 10% and increase the modal share for active travel and public transport to 39% by 2030 are ambitious. However, regulatory tools within this legislation combined with a whole-system approach to promoting awareness on air pollution and modal shift will go some way towards meeting our existing Net Zero targets.

## National air quality strategy (sections 9 to 11)

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We worked with Welsh Government to develop the 2020 Clean Air Plan - ‘Healthy Air, Healthy Wales’ - and have called for the successor documents to be statutory strategies with the added importance and status that this would bring.

Sections 9 to 11 are therefore welcomed in principle but we are concerned about the way that the Bill attempts to achieve this.

The Bill attempts to amend the Environment Act 1995 (section 80) in order to state that the powers to make a ‘national air quality strategy’ in Wales would now rest with Welsh Ministers at the Senedd, rather than a Secretary of State and the UK Parliament. This provision was made possible by the UK Environment Act 2021 amending the same section to specify that the UK Government would use this power to make a nation air quality strategy.

This seems a very unusual way to draft a Bill and we are concerned about unforeseen consequences. We would therefore like to see this section redrafted so that it is clear that the Environment (Air Quality and Soundscape) Bill is granting Welsh Ministers clear powers to develop a Clean Air strategy with a clear review process defined in the Bill. Section 22 provides a useful template that a revised Section 9 could follow.

If Section 9 was rewritten this would require changes to Section 10 and 11 also. Whether the wording stays in the amended Environment Act 1995 or preferably moves to this Bill, we are concerned that s.11(1) is not strong enough. It states 'the following persons must have regard to the policies...' We worry that the strategy could be ignored by public

authorities if it is only 'have regard to.' We would propose 'must reflect the policies' or something similar

#### Air quality regulations (section 12)

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We don't have any specific comments on this section.

#### Local air quality management (sections 13 to 15)

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The current process of monitoring national and local air pollution is inadequate, creates confusion for the public and gives a false picture of the air pollution challenges that Wales faces. The existence of two different monitoring systems - one based on a small number of monitors for previous EU directive purposes and local monitoring based largely on diffusion tubes is unhelpful. When the Welsh Government faced legal action for NO<sub>2</sub> exceedances this was due to national monitoring. Welsh Government has taken action to reduce these, but there are other areas with exceedances where monitoring is not taking place.

Welsh Government recognise in the explanatory memorandum, (EM 3.127) that the current system is not working so section 14 is designed to tackle these issues. We welcome the need for local authorities to require an annual review of local air quality, and to need to commit to a compliance date agreed with Welsh Government. As EM 3.133 states the current framework only requires local authorities to develop actions 'in pursuit' of compliance. This could lead to the same air quality management areas remaining for years.

What is unclear from the Bill and the explanatory memorandum is how the local authority reporting cycle aligns with Welsh Government's reporting cycle to the Senedd. If a national monitoring network is established and is reporting data to

both Welsh Government and to local authorities, should section 13(3) still be a local authority requirement or should the duty lie with Welsh Government?

Section 5(4) requires the Welsh Government to make a statement within 12 months of a target not being met. Would Section 14 need to be aligned with section 5 to ensure that Welsh Ministers had this information before they make their statement to the Senedd?

Finally, the current local air quality management is struggling based on the current air pollution exceedances. As the targets are reduced to meet the World Health Organization limits, there will be a lot more exceedances in both NO<sub>2</sub> and PM<sub>2.5</sub>.

### Smoke control (sections 16 to 18)

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We welcome the inclusion of the 3 smoke control sections (s16-18), but we are concerned that they don't go far enough.

#### The challenge of domestic burning

Domestic burning is the burning of solid fuels in the household for purposes such as cooking, heating, or lighting, for example log burners or bonfires.

National Atmospheric Emissions Inventory states that domestic burning of solid fuels is the largest single contributing source of the UK's levels of PM<sub>2.5</sub>, producing as much as transport and industry combined (NAEI, <https://naei.beis.gov.uk/>)

Despite improvements in their design, academic research has found that even homes with "eco" wood burners are three times more polluted than those without ([Atmosphere | Free Full-Text | Indoor Air Pollution from Residential Stoves: Examining the Flooding of Particulate Matter into Homes during Real-World Use \(mdpi.com\)](#)). In fact, wood burners and open fires produce more harmful PM<sub>2.5</sub> than road transport in the UK. The government's own data has suggested that emissions of PM<sub>2.5</sub> from domestic heating has increased by 125% in 10-years, implying a significant increase in the use of domestic wood burners ([Emissions of air pollutants in the UK - Summary - GOV.UK \(www.gov.uk\)](#)).

Often, domestic burning is for aesthetic purposes and only 1% of Welsh households rely on burning solid fuels as their primary source of heating (Welsh Housing Conditions Survey, Welsh Government, <https://www.gov.wales/welsh-housing-conditions-survey>).

Wood which hasn't been dried out and traditional bituminous coal are some of the most polluting fuels. Less harmful alternatives include dried wood and authorised biomass fuels manufactured into briquettes (Reducing Emissions from Domestic Burning of Solid Fuels, Welsh Government. <https://rb.gy/c7u40i>).

What action would we like to see?

Not all the actions needed require primary legislation, with Welsh Government already having powers, and some of it being down to behaviour change.

- **Better fuel:** A ban on sales of wet wood and suppliers should also be legally required to maintain wood at a moisture content of 20% or less, this should be regulated with an administered certification scheme to carry out robust testing and auditing. There should also be a ban on the sale of traditional bituminous coal, and a move to greener more cost-effective alternatives.
- **Better appliances:** Welsh Government should commit to regulation which ensures only the most efficient stoves are available to buy and are fitted and maintained regularly by a competent professional.
- **Better information:** Welsh Government should run targeted informational campaigns on the environmental and health impacts of burning, as well as providing advice and support to suppliers and households on how to reduce the moisture content of wood.
- **Moving away from domestic burning:** To ensure a reduction of emissions from domestic burning there should be long term ambitions to move away from domestic burning altogether. Any policies must be accompanied by support for households to move to safer, cleaner alternatives to domestic burning.

What changes will the Bill make?

In EM 3.153 Welsh Government states that it is their objective to 'improve the use and implementation of smoke control legislation to reduce air pollution for the benefit of current and future generations.' We support this objective and agree that these sections will make a positive impact. The change from a criminal to a civil offence is a positive one and we agree that it will help local authorities to enforce the current rules.

However we are unclear whether the Welsh Government do want to expand smoke control areas and protect public health or not. At present there are only 4 local authorities operating smoke control areas and neither the Explanatory Memorandum or the Bill makes it clear whether the Welsh Government would



encourage local authorities to apply for them. In theory new, lower air pollution targets might require local authorities to introduce smoke control areas in order to meet the targets, but the Bill as drafted doesn't appear to give Ministers the power to roll them out Wales-wide. As stated earlier domestic burning is a huge public health issue, in particular for people living close by. It would be possible to have a localised PM2.5 spike on a road, street or even a village that wouldn't be picked up by modelled air pollution, only if a monitor was nearby. If air pollution levels elsewhere in the city or county were not poor, then a smoke control area might not be considered.

We would like the Bill to roll out smoke control restrictions across the whole nation, giving everyone the protection they need from the dangers of burning the most polluting fuels. Regulations could provide for a system of exemptions for people who live in very remote areas, but domestic burning in the rest of Wales should be minimised and only using dry/smokeless fuels.

We are concerned that section 16 and schedule 1 appear to largely duplicate the existing legislation for England in the Clean Air Act 1993 rather than develop something bespoke for Wales. We would like those powers to be transferred into this Environment Bill to create a new legal landscape around clean air in Wales instead.

#### Vehicle emissions (sections 19 to 21)

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Vehicle emissions, particularly from private cars, are one of the greatest contributors to air pollution. As a result, there is an inevitable link between the number of vehicles on our roads and the quality of our air. The number of people choosing to travel actively will be important in tackling air pollution and reducing vehicle emissions. Existing targets in the Net Zero Plan to reduce emissions by 22% between 2019 and 2025, and by 98% by 2040, and highlights the need for this legislation to utilise all tools at Welsh Government's disposal including the introduction of clean air zones under existing powers in addition to exercising trunk road charging that would be introduced in this bill.

#### Trunk Road charging

Sections 19 and 20 give Welsh Ministers power to introduce vehicle charging on trunk roads where air pollution continues to exceed. The Bill doesn't cover clean air zones or towns and cities due to the Senedd not having legislative competence in this area. Welsh Ministers already have power to introduce clean air zones due to the UK Transport Act 2000.

Vehicle charging through Clean Air Zones has been used to reduce air pollution in cities across Europe and in England. London has the most successful one (<https://www.london.gov.uk/programmes-strategies/environment-and-climate-change/environment-and-climate-change-publications/inner-london-ultra-low-emission-zone-expansion-one-year-report>) with benefits including:

- An almost 50 percent reduction in toxic Nitrogen Dioxide (NO<sub>x</sub>) pollution in central London
- Pollution has decreased five times faster in London than anywhere else in the UK (between 2016 and 2020)
- One million hospitalisations averted in total by 2050
- 94 percent of vehicles seen driving in the current zone now meet the strict emissions standards on an average day, significantly higher than the 39 percent in 2017 when the ULEZ was first announced.

In 2018 Welsh Government introduced 50mph restrictions on 5 trunk road locations. In all but one location, air pollution limits have been reduced below the current NO<sub>2</sub> legal limits. However if air pollution limits are reduced in the short term, more radical action will be needed.

Welsh Government are seeking powers to introduce vehicle charging on trunk roads to help reduce air pollution further. We support Clean Air Zones and vehicle charging, but we are unsure whether charging on trunk roads will have the desired impact. A city centre Clean Air Zone works on the basis that people can substitute cars for public or active travel to get into the centre. A trunk road clean air zone might not work as well with the risk that traffic and air pollution are diverted onto smaller, residential roads rather than on public transport.

### Vehicle idling

We strongly welcome s.21 amendments to the Environment Act to make stationary idling an offence under the s.42 of the Road Traffic Act 1988. Every minute, an idling car produces enough exhaust emissions to fill 150 balloons with harmful chemicals, including cyanide, NO<sub>x</sub> and PM<sub>2.5</sub>.

A 2016 study found that one factor in people choosing to make journeys on foot was environmental aesthetics, including air quality and fresh air (Dadpour et al. 2016, Int J Environ Res Public Health: 731). With cleaner air we can encourage people to travel actively and promote the benefits of outside physical activity.

However, we would welcome clarity on how the Welsh Government expects penalties for stationary idling to be issued, and which bodies will be tasked with the enforcement of the offence.

### National soundscapes strategy (sections 22 and 23)

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We welcome the commitment to produce and publish a Soundscapes Strategy. We were initially surprised to see noise and sound added to what would have been a Clean Air Bill, but can now see the benefits to advance the discourse with respect to the role that soundscapes have to play in air pollution, air quality, and public health. This is an encouraging step from the Welsh Government as it shows not only an interest but a desire and commitment to take tangible action to both improve the environment and public health.

We welcome the commitment within the Bill that states that local authorities can use existing soundscape strategies, as considerable time and resource would have been spent on producing them to date.

We have several questions regarding the proposed actions time frames. While it is reasonable to review the strategy every five years, the Bill provides scant detail as to what actions will be firmly taken during this review period. While the Bill mentions in s.22(6)(a)(i) that Ministers must 'have regard to scientific knowledge relating to soundscapes', it is unclear what actions will be taken by Ministers to ensure that the most appropriate scientific knowledge will be sought.

S.22(6)(a)(ii) of the Bill refers to Minister having regard to 'recent strategic noise maps.' We wish to highlight that under s.7(2) Environmental Noise (Wales) Regulations 2006 strategic noise maps need to be reviewed every five years. In local authorities where strategic noise maps have not been reviewed within the previous 12 – 24 months, they are unlikely to have considered lifestyle changes that have occurred over the past three years owing to the COVID-19 pandemic. Over the previous three years, more people are working from home, there are more mixed-use developments and conversions, while more and more people are relying on home deliveries etc. All these changes will have made a considerable impact on strategic noise maps, with more recent consideration to be afforded to noise impacts on public health.

We are also somewhat concerned about the proposed review period. S.22(5)(a) indicates that the Bill is to reviewed 'within 5 years of the publication of the strategy and (b) within each period of 5 years beginning with the day on which the Welsh Ministers completed their most recent review under this subsection.'

We believe such a review period to be reasonable. However, there is a lack of in the explanatory memorandum, on several items

such as how the impacts on soundscapes are to be measured throughout the five-year period, who will be responsible for monitoring this data, how local monitoring could be coordinated nationally, and who will be responsible for leading the soundscapes strategy review. Furthermore, s.22(7) enables the Minister to alter the review period outlined in (5) to enable the Minister to potentially prolong the period in which a review must be concluded. We are concerned that such a clause would enable the review period to be extended beyond the 5 years. We would like such a review period to be set at 5 years maximum and that should the Minister wish to review the soundscapes strategy sooner, s.22(5) enables the Minister to do so. Therefore, we wish to question the decision to include (7) if not for the sole purpose of enabling the Minister to prolong the review period and wish to argue that s.22(7) be removed from the Bill.

While s.24 enables Ministers to change the intervals at which strategic noise maps must be made and adopted under regulation 7(2) of the Environmental Noise (Wales) Regulations 2006 and to change the period within which reviews of noise action plans under regulation 17(3)(b) of those Regulations must take place, para 105 provides no further information as to under what circumstances this would take place. We wish to question the decision to include s.24 if not for the sole purpose of enabling the Minister to prolong the review period by which strategic noise maps are to be reviewed and wish to argue that s.22(7) be removed from the Bill.

S.23 (1) of the Bill, and expanded in para 101 in the explanatory memorandum, highlights that local authorities and relevant Welsh public authorities are required to 'have regard to the policies in the national strategy on soundscapes published under section 22 when exercising any function of a public nature that could affect soundscapes in Wales.' We are concerned that this requirement does not go far enough as 'having regard' does not impose a mandatory requirement for the local authority or relevant Welsh public authority to abide by the policies in the national strategy on soundscapes when exercising their duties. Amidst competing, and often conflicting priorities, local authorities could consider, but ultimately dismiss, the policies in the national soundscapes strategy in exercising their duties. We are in favour of strengthening this aspect of the Bill to include 'having due regard

Strategic noise map and noise action plans (sections 24)

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Nothing further to add to the above.

General provisions (sections 25 to 28);

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Nothing to add to this section

What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

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As mentioned in previous sections there are some areas where it could be clearer what was a Welsh Government vs local authority responsibility.

How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

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In many ways the Bill gives too wide ranging powers, but there are sections where these powers don't go far enough. Sections 1 and 2 for examples give powers to set targets but Ministers are not constrained by how ambitious or how urgent these targets are in improving air quality. As stated earlier, we would like to see the World Health Organization limits recognise somewhere within the legislation itself rather than just referenced in the appendix. However there are other areas where ministerial powers are constrained. On smoke control areas, the power to establish one seems to remain with the local authority, whilst S.19(1)(b) places constraints on when Ministers would be able to introduce trunk road charging.

Are any unintended consequences likely to arise from the Bill?

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If the Bill does not go far enough there is the consequence that it will take many years to find legislative time to pass another Environment Bill.

What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

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Welsh Government has set out a detailed breakdown of the estimated costs of the Bill in pages 79-156 in the Explanatory Memorandum. The calculations would have been done with a clear methodology, and we support the investments in monitoring, consultancy support, awareness campaigns and governance, but there are some areas where the amounts proposed seem far too low.

LAQM

The EM proposes a budget of £1 million per year to provide a revenue/capital allocation to assist councils in meeting the new targets locally. This seems very

small if it is truly going to make a difference locally. In 2019 Welsh Government allocated a fund of £20 million to tackle air pollution mostly directed at Cardiff and Caerphilly councils. The cost of road and traffic changes and the compulsory purchasing of houses were huge and this fund also helped with better monitoring and purchasing electric buses. £1 million for all of Wales would make very little difference, so doesn't seem very realistic.

#### Smoke control areas

The total budget proposed for this is set out in Table 9 and varies from £15.8k to £18.4k. There is a missing row where it states 'local authority costs to follow guidance', but the row marked 'local authority costs to enforce new regime' is only £18.4k. If domestic burning is to be tackled locally and then this will require a dramatically increased enforcement provision with staff operating day and night to investigate complaints of wet wood or burning, and technology to identify the sources. This could potentially cost millions of pounds every year.

#### Trunk roads

The EM only includes a one off cost of £30k for the Trunk road powers in 2024/25. This might be the cost of the civil service time to develop the guidance, but it seems disingenuous to say that Road User Charging will be completely revenue neutral. In the long term this might be the case, but the preparation and introduction years would be expensive with the costs only recovered later.

#### Statutory idling

The EM proposes a budget of only £16.4k for 2024/25 with no further costs. There is a missing row where it states 'local authority costs to follow guidance.' Similar to smoke control areas, this is an area where most councils would need to employ new staff so these costs will be large. Table 11 states that 'a level of support will be available from the LAQM Support Fund', but as stated earlier, we worry this fund is far too small.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

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N/A

## **AQS 05 Royal College of Physicians**

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Senedd Cymru | Welsh Parliament

**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

**Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment (Air Quality and Soundscapes) (Wales) Bill**

Ymateb gan Coleg Brenhinol y Meddygon | Evidence from Royal College of Physicians

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## RCP Cymru Wales response

### Consultation on the general principles of the Environment (Air Quality and Soundscapes) (Wales) Bill

Dear colleagues,

Thank you for the opportunity to submit written evidence to your consultation for Stage 1 scrutiny of the general principles of the Environment (Air Quality and Soundscapes) (Wales) Bill.

We are members of [Healthy Air Cymru](#), the coalition of charities campaigning to improve the quality of the air we all breathe. We welcome the need for clean air legislation and have been calling for a Clean Air Act since 2017.

Having reviewed the written evidence submitted by Healthy Air Cymru on behalf of partner organisations, we strongly endorse their submission, and have nothing more specific to add except to share the following resources:

[Every breath we take: the lifelong impact of air pollution 2016 \(full report\)](#)

[Every breath we take: the lifelong impact of air pollution \(6-page summary\)](#)

[Every breath we take: the lifelong impact of air pollution \(20-page summary\)](#)

[Every breath we take - evidence submitted to the RCP working party](#)

[Reducing air pollution in the UK: Progress report 2018](#)

With thanks, and best wishes,

**Dr Olwen Williams OBE**

Vice president for Wales, Royal College of Physicians  
Consultant physician in sexual health and HIV medicine

**Professor Gwyneth Davies**

Professor of respiratory medicine and respiratory physician  
Singleton Hospital  
Swansea Bay University Health Board



## **AQS 03 Public Health Wales**

### **Senedd Cymru | Welsh Parliament**

#### **Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

#### **Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment (Air Quality and Soundscapes) (Wales) Bill**

#### **Ymateb gan Iechyd Cyhoeddus Cymru | Evidence from Public Health Wales**

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

Public Health Wales welcomes the publication of this bill. There are no safe levels of air pollution and health is harmed at low concentrations. It is also the case that there is a link between air pollution, deprivation and health, with people who are in the poorest health and living in the most difficult circumstances also exposed to the highest levels of pollution (Brunt et al, 2016).

There is a need for legislation to make progress in this area however, it is important that further developments linked to this legislation progress rapidly. Given that air pollution harms the cardio-respiratory system (so the same part of the body as targeted by COVID-19) it is critical that air pollution is addressed as a wider determinant of health as quickly as possible to support the recovery of health and health services from the burden created by the pandemic.

Brunt H, Barnes J, Jones SJ, Longhurst JWS, Scally G, Hayes E (2016). Air pollution, deprivation and health: Understanding relationships to add value to local air quality management policy and practice in Wales, UK. *Journal of Public Health*, online first.

<https://doi.org/10.1093/pubmed/fdw084>

2. What are your views on the Bill's provisions (set out according to sections below), in particular are they workable and will they deliver the stated policy intention?

2.i) National air quality targets (sections 1 to 7)

Public Health Wales welcomes the provision of powers to set, review and monitor targets. However, it would like to see adoption of the WHO targets, or setting of even more stringent targets, in as short a time as possible. Current targets are too often seen as a "target" for polluting up to, rather than an absolute maximum. But, health effects are known to occur even at low levels of air pollution, that Wales has significant proportions of the population living in deprivation and with ill health, the "triple jeopardy" (Brunt et al, 2016) is an important concern. Targets should be designed to protect everyone and drive population wide

exposure improvements which will include the most disadvantaged by default. Ambitious exposure reduction targets would yield the greatest health benefit and should be considered as an appropriate basis for a metric to reflect health benefits of reductions in long-term exposure. While long-term exposure is most important for public health, any future targets need to consider the effects of short-term (i.e. hourly/daily) exposure.

It is also important to note that setting and monitoring targets will not bring about significant changes in air quality without additional measures to reduce pollution, particularly around car travel and increased provision of public transport and active travel infrastructure. We believe that it is important to manage expectations in terms of what is possible merely from target setting and monitoring.

It is also noted that mention is made of being able to take a more responsive approach to emerging issues. While we welcome this, we also caution against focus on single pollutants such as PM<sub>2.5</sub> and would recommend a more holistic approach. Current concerns over NO<sub>2</sub> are due, in part, to incentives offered to diesel vehicle drivers in the wake of concerns over CO<sub>2</sub> levels. The focus on tackling NO<sub>2</sub> levels by encouraging switches to electric vehicles could well exacerbate PM levels and cause further harms; PM is produced from tyre and brake wear and electric vehicles are heavier than their diesel and petrol equivalents. Policy measures need to address pollution by considering all forms and their reduction together, particularly in terms of reducing car travel and increasing provision of public transport and active travel infrastructure.

Target setting, and action planning and implementation, also needs to be carried out with consideration for inequalities and not exacerbating these.

Brunt H, Barnes J, Jones SJ, Longhurst JWS, Scally G, Hayes E (2016). Air pollution, deprivation and health: Understanding relationships to add value to local air quality management policy and practice in Wales, UK. *Journal of Public Health*, online first.

<https://doi.org/10.1093/pubmed/fdw084>

## 2.ii) Promoting awareness about air pollution (section 8)

Public Health Wales welcomes the Bill placing a duty on Welsh Ministers to take steps to promote awareness of air pollution, including the health and environmental impacts and actions that may help to reduce or limit air pollution. Public Health Wales also recognises the reference to the Prevention of Future Deaths Report by the Coroner following the inquest into the death of Ella Adoo-Kissi-Debrah.

Public Health Wales agrees that public awareness of websites such as UK-Air (and the Welsh equivalent) is poor and greater awareness may help people to reduce their exposure to air

pollution. But there are still plenty of people in Wales who do not use the internet on a regular basis and / or who do not have the reading ability to act on the information there.

In addition, the danger of “awareness raising” of this nature is that it pushes responsibility for tackling problems on to those who are least able to change or control situations. For example, people in the most deprived areas already drive less than those in the least deprived areas, but driving is not restricted to the areas in which we all live. So, people in the most deprived areas would also be being asked to change their behaviour to accommodate the actions of those living elsewhere. Awareness raising also needs to be focused at policy makers at both a local and national level.

Public Health Wales has also been exploring the statement that *“The adverse effects of air pollution on health are not being sufficiently communicated to patients and their carers by medical and nursing professionals.”* Public Health Wales is the National Public Health Institute for Wales so has a role in supporting such activity to ensure that information that is being communicated is being done so in an evidence based and equitable manner. It may be that it is difficult for clinicians to find the time to meaningfully explore this with their patients, given the time pressures they already currently face. Public Health Wales is therefore keen to see that awareness raising efforts are evidence based and are not seen as an “instead” of evidence-based policy actions of proven effect of addressing air pollution.

#### 2.iii) National air quality strategy (sections 9 to 11)

Public Health Wales agrees that the publication of a Clean Air Plan or Strategy within 12 months of the Bill being passed and reviewed every 5 years would be of value.

#### 2.iv) Air quality regulations (section 12)

Public Health Wales welcomes the setting out of the duty of consultation before making regulations.

#### 2.v) Local air quality management (sections 13 to 15)

Public Health Wales agrees that local air pollution monitoring processes and the Local Air Quality Management framework needs reform. It is keen to see this progress as quickly as possible and also to see the new process associated with more significant and robust action to address pollution than has been the case to date. It also needs to move away from “hot

spot" management because of the limited potential of such an approach to have any significant effect on either air quality or health.

Considering current LAQM in the context of the Prevention Paradox; if we treat only a small area with high levels of pollution, then the benefit to population health will be less effect than treating a much larger area and bringing about a smaller effect on pollution levels.

[The prevention paradox | Health Knowledge](#)

#### 2.vi) Smoke control (sections 16 to 18)

Public Health Wales agrees that smoke control is important and that domestic burning of solid fuels is a concern. However, we are also mindful of the significant burden of the current costs of energy on people (mentioned in section 3.149) and also then the resulting effects on their physical and mental health. We believe that this could lead people to seek other, cheaper sources of fuel and that domestic burning could become more common. Therefore, smoke control legislation needs to be considered and implemented in the context of reductions in overall energy costs.

Of greatest risk from current energy costs are those people on the lowest incomes, meaning that domestic burning of solid fuels may become more appealing. These people are, of course, also likely to be more vulnerable and susceptible to the harms to their indoor air quality of domestic burning. Punitive approaches (suggested in section 3.152 and section 3.170) to domestic burning are also likely to cause even more hardship. Therefore, Public Health Wales is keen that any smoke control legislation fully considers inequalities and whether these could be exacerbated by any policy that is implemented.

#### 2.vii) Vehicle emissions (sections 19 to 21)

Public Health Wales welcomes efforts to address vehicle emissions but is concerned that approaches such as Clean Air or Low Emission Zones will increase inequalities. The explanatory memorandum describes a CAZ/LEZ as *"incentivising behaviour change, including take-up of cleaner transport modes and active travel alternatives which can also deliver wider health benefits."*

One of the outcomes of COVID-19 is a change in working from home, with many office based staff continuing to work from home 2 to 3 days per week. Generally, people living in the least deprived areas are most able to work from home because of the nature of their employment.

Generally, those people living in the most deprived areas are more likely to have to travel to a place of work to do that job. This means that any CAZ or LEZ will disproportionately harm those who have to travel for their work. It is also difficult to see how those who travel for shifts at anti-social hours are “incentivised” by a CAZ.

Public Health Wales would be keen to see a much greater focus on improving public transport and active travel infrastructure to enable more people to choose not to travel by car, rather than a “zone” based approach such as this.

The issues of “hot spot” approaches are also discussed above in relation to the Prevention Paradox (section 2v). A CAZ/LEZ would generally be expected to cover a larger area than current LAQM but may still have limited benefit.

Finally, newer, less polluting vehicles are often exempt from, or subject to lower charges, than older, more polluting vehicles. We have two points to make about this

- 1) That those in the most deprived areas, as well as likely to be needing to travel for work more, are also least likely to be able to upgrade vehicles to achieve compliance with any CAZ
- 2) That encouraging replacement of operational vehicles is not consistent with the sustainability principles of the climate emergency. While a new car may produce lower emissions once it is on the road, the emissions that are produced in the manufacture of that car displaces the emissions to other parts of the world. This is therefore not an example of Wales being globally responsible, as demanded by WFGA. Production emissions are of a similar magnitude to the lifetime emissions of the car once it is in use.

[What's the carbon footprint of ... a new car? | Environment | The Guardian](#)

Section 3.187 mentions the provision of the legislation to allow for revenue raised by CAZ/LEZ to be spent on non-transport projects to reduce air pollution. Given the extent to which transport contributes to current air pollution levels it’s difficult to understand the rationale and evidence base for this proposal.

Public Health Wales also welcomes the introduction of anti-idling measures, in relation to both air and noise pollution, and is keen to see these implemented as quickly as possible, particularly around schools. However, it is concerned that section 3.226 makes reference to the promotion of low emission vehicles as an anti-idling measure. As stated above, we are keen that an “all pollutants” approach is adopted in improving air quality in Wales and a focus

on low emission vehicles, especially in the private car fleet, does not do this. The greater weight of electric / low emission cars means that there is a risk that encouraging a car-for-car switch to low emission private cars will just exacerbate PM levels.

2.viii) National soundscapes strategy (sections 22 and 23)

Public Health Wales welcomes the recognition that noise is also a significant health harm and believes that the soundscapes strategy is an important step to addressing this. It also welcomes the stipulation for consulting on the strategy.

2.ix) Strategic noise map and noise action plans (sections 24)

Public Health Wales welcomes the options to alter the intervals between strategic noise mapping.

2.x) General provisions (sections 25 to 28);

Public Health Wales has no further comment on the general provisions.

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

As noted above, the key barriers and concerns are that some of the proposed interventions exacerbate, rather than reduce inequalities and therefore do not have the hoped for benefits to health across the population. However, we are also sure that it is possible to implement appropriate measures without exacerbating inequalities and would be more than happy to contribute wherever we are needed to help to support this.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

No further comment here

5. Are any unintended consequences likely to arise from the Bill?

See comments above. Public Health Wales is concerned about the potential for exacerbation of inequalities associated with some of the proposed measures. However, we are also sure that it is possible to implement appropriate measures without exacerbating inequalities and would be more than happy to contribute wherever we are needed to help to support this.

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

No further comment here

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

In the explanatory memorandum accompanying the Bill, the following is stated:-

*3.19. Estimating the health impact of air pollution is difficult. The Chemical Hazards and Poisons Report, June 2022, contains a paper on "Updated Mortality burden estimates attributable to air pollution". This estimated the burden range of poor air to be the equivalent of between 29,000 and 43,000 deaths per year in the UK. Public Health Wales estimates the burden of long-term air pollution exposure to be the equivalent of 1,000 to 1,400 deaths (at typical ages) each year in Wales.*

The work that Public Health Wales did on this was before the COVID-19 pandemic. Public Health Wales is not comfortable with the on-going use of, and focus on, these figures to express the burden of air pollution. There is a number of reasons for this. As stated above, the figures are describing "equivalent" deaths, not actual deaths. The "equivalent" deaths figure is the sum of the time lost from all of our lives due to air pollution, currently estimated to be around 6 to 9 months. Of course, many factors affect this figure, including other health problems and deprivation, so some of us may lose more than 6 to 9 months and some less. The equivalent deaths figure adds all of these months and divides the result by life expectancy to give an estimate of "equivalent deaths". So, these are not deaths from air pollution. This is

neither an easy concept to understand not explain and is often mis-interpreted as actual deaths due to air pollution (see for example -

<https://www.actionforcleanair.org.uk/health/knowledge-hub-health>

Impacts of air pollution on patients when you scroll down - at 2.20 s.)

In addition, the more recent figures produced by UKHSA were for 2019. How the pandemic may have affected these estimates is unknown. What the figures mean after the prolonged periods of significant changes to travel behaviour, and therefore pollution, is unknown.

Given these issues, Public Health Wales is not intending to calculate, publish or update these figures in the coming years. That does not mean that other agencies will not publish them, but Public Health Wales will look to explore with partners how other measures can be used to more clearly and effectively express the burden of air pollution on health of people in Wales.



## AQS 06 Newport City Council

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Senedd Cymru | Welsh Parliament

**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

**Bil yr Amgylchedd (Ansawdd Aer a Seinweddau) (Cymru) | The Environment (Air Quality and Soundscapes) (Wales) Bill**

Ymateb gan Cyngor Dinas Casnewydd | Evidence from Newport City Council

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### General principles

**What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?**

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General principles of the Bill appear pragmatic and with clarification of meaning through guidance this should move the air quality agenda forward.

Legislation should accord with Policy but not necessarily repeat it in the body of the legislation.

**What are your views on the Bill's provisions (set out according to sections below), in particular are they workable and will they deliver the stated policy intention?**

**National air quality targets (sections 1 to 7)**

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Setting of targets should be in the context of what can reasonably be achieved rather than setting a standard to be achieved. Inclusion of a time metric is welcomed as this should provide councils and communities with a sense of journey and destination.

Measurement of targets can relate to the type of metric annual, hourly etc or the means by which targets are measured instrument wise. This is not clear in (4) of air quality targets.

Setting targets for PM2.5 is welcomed. It is however not just a technical matter of setting a target as there will be wellbeing and distinctive lifestyle elements for communities which need to be factored in; in so far as understanding where it may not be feasible to apply a PM2.5 standard where wider harm may occur in

respect of human wellbeing e.g., rural fuel poverty preventing affordable fuel choices which reduce PM2.5 generation.

Allowing regulators to exercise their multifactorial professional judgement should allow adopted PM2.5 standards to be applied in a manner which promotes well being and protects public health.

Reporting on targets is welcomed and the wider context of the status of a target at any given moment in time needs to be captured by councils and not just the raw data itself. e.g., rates of urban renewal, fleet transformation, changes in indices of deprivation, intensification of industry/agriculture.

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### **Promoting awareness about air pollution (section 8)**

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Promoting awareness and education in relation to air quality is a pillar of the NCC AQAP and as such this provision is whole heartedly supported. Monitoring air quality pollutants is a baseline activity that has taken up too much officer time and sadly the engagement and awareness piece is difficult to bring to the fore. Only where aspects of the monitoring and data reporting are better covered in house or externalised, can other staff develop awareness and engagement with communities. One of the best ways to start an awareness dialogue is the formation of local air quality groups where are AQMAs. This has worked well in NCC to date and the wider conversation about air quality need not be limited to AQMA air quality groups.

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### **National air quality strategy (sections 9 to 11)**

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A national air quality strategy that reflects the direction of travel of both councils and Welsh Government would be welcomed at whatever review period is decided. Such a strategy could remove the need for individual councils to publish their own strategy, other than an AQAP of course. Harmonising AQAPs with a national strategy would be a logical step also.

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### **Air quality regulations (section 12)**

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This section is supported.

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### **Local air quality management (sections 13 to 15)**

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Annual reviews are taken to relate to the existing Annual Progress Report regime.

Air Quality Action Plan requirements are supported and it is hoped will be reflected in NCCs pending AQAP.

Powers of direction are supported.

### **Smoke control (sections 16 to 18)**

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Unambiguous guidance on the definition of 'emission of smoke' in Wales and exercise of financial penalties will be required.

Exempting fireplaces where a lack of smoke is concerned is a fairly subjective test for a source which will inevitably contain emissions regardless of smoke. Some form of metric should be applied to this that perhaps relates to a PM2.5 concentration at a set distance from a chimney flue outlet for example. Additionally, instruments that can identify the significance of emissions from domestic fireplaces need to be specified in guidance.

### **Vehicle emissions (sections 19 to 21)**

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It is noted that any trunk road charging scheme may only be "made for the purpose of reducing or limiting air pollution in the vicinity of the road" guidance on what constitutes the vicinity will be needed so local councils can be reassured that the LAQM covered localities adjacent to trunk roads have their prevailing air quality protected. Will this mean that a charging scheme would not be introduced where driver behaviours potentially prejudiced the air quality achievements of local councils for nearby residential receptors ?

Stationary idling offences are welcomed subject to resources being available to deliver this where warranted.

### **National soundscapes strategy (sections 22 and 23)**

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The strategic approach to soundscapes and noise mapping needs to also have regard to research and innovation in transportation noise sources i.e. engines/motors and tyres; as well as low noise road surfaces where ambient noise levels are identified as in need of protection.

### **Strategic noise map and noise action plans (sections 24)**

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Strategic noise maps and noise action plans are welcomed and core planning policies should be developed in all councils which relate specifically to noise and soundscapes in accordance with the new TAN11 documentation. There is also an opportunity to incorporate biodiversity into the air quality and soundscapes bill in recognition of its inclusion in TAN11.

### **General provisions (sections 25 to 28);**

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No comment

### **What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?**

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The implementation of the Bill needs to be done in recognition of context of each councils site specific circumstances and in effect a memorandum of understanding established with each council in terms of how the Bill will be locally applied. The economy of scale that Wales benefits from should make this achievable.

### **How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?**

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There do not appear to be any swingeing powers given to ministers and provided any subordinate legislation is consulted upon this should be acceptable to all councils.

### **Are any unintended consequences likely to arise from the Bill?**

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The assessment of the range of unintended consequences that may occur as a result of the Bill needs to be demonstrated by Welsh Government in order to reassure those parties that they have identified things like the rerouted pollution effects upon residential receptors in respect of road charging schemes where driver avoidance blights the air quality and amenity of nearby communities with compliant air quality. Smoke control has similar risks in very poor communities where alternatives to wood burning are not accessible financially (WG schemes to support transition may be key here).

### **What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?**

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The synergies between air quality and carbon reduction activity are identified and in the memorandum and fully supported as they will both have shared cost savings associated with them.

WG costs are noted however there will inevitably be costs for local authorities in delivering the scope of the legislation and reviewing their functional emphasis i.e. moving from baseline air quality monitoring and reporting to working more on proactive measures facilitation through planning and permitting etc; and engagement with communities on air quality matters and working with them to deliver achievable improvements.

**Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?**

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Unfortunately work pressures have not allowed full reading of the 254 page Explanatory Memorandum; however the sentiment of the document and the intended effect of the legislation upon which it is founded is supported.

The gap in the legislative landscape regarding air quality information and awareness is in part a function of the level of staffing/investment present in local authorities only being able to support a baseline monitoring and reporting capability. Where reporting is outsourced, this can free up some officer time to engage in the wider air quality piece which is what we should all be doing as it's the community engagement and empowerment that makes the work most worthwhile. This has been the case in Newport and the air quality agenda has moved forward accordingly. More investment in wider air quality teams with greater scope for impact is needed in a similar vein to that of Carbon Reduction and Climate Change resourcing, which are its siblings after all...

The strategic/engagement aspects of air quality and the enforcement/regulation aspects of air quality are two distinct strands of work which select for officers with skills that are suited to them respectively. Delivering the legislation will require careful work programming and organisation; as where this is poorly done officers will find themselves chasing their tails over complaint work and never reaching the engagement stage which has historically been the case in many environmental protection teams across disciplines including noise, air quality and contaminated land.



Llywodraeth Cymru  
Welsh Government

Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

Eich cyf/Your ref  
Ein cyf/Our ref

Llyr Gruffydd MS  
Climate Change, Environment and Infrastructure Committee  
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21 April 2023

Dear Llyr,

Thank you for your letter of 31 March. Please find below my responses to your questions following the evidence session of 29 March 2023, at the Climate Change, Environment and Infrastructure Committee on the Environment (Air Quality and Soundscapes) (Wales) Bill.

## Air Quality Targets

### **1. Why have you chosen not to be more prescriptive about the information the Welsh Ministers must have regard to before making regulations setting air quality targets (to reflect the proposal in the White Paper)?**

Evidence on the effects of air pollutants is constantly emerging. Therefore, it is important to be able to respond to evolving circumstances. The Welsh Government is committed to evidence-based policy making and will consider the World Health Organisation air quality guidelines in developing target proposals, alongside independent expert advice, evidence and analysis on a range of factors. This includes the health benefits of reducing pollutant levels and the practical feasibility and economic viability of taking different actions which could deliver on potential targets.

These factors will be considered alongside existing comprehensive requirements of associated regulatory impact assessments, prior to consulting on and then setting specific air quality targets in regulations.

### **2. What consideration did you give to using the Bill to place the Clean Air Advisory Panel on a statutory footing?**

The Bill provides that before making regulations to set long-term targets or a target for PM2.5, Welsh Ministers must firstly seek advice from persons they consider to be

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

independent and to have relevant expertise. Secondly, they must have regard to scientific knowledge on air pollution.

Independent expert advice and scientific knowledge are available to Welsh Government through several routes. We have established the Clean Air Advisory Panel, which is providing advice and recommendations on the target setting process and specific priority air pollutant targets in Wales. However, Welsh Ministers may also need to take further advice from individual specialists or broader expert groups, depending on the scientific discipline or issue. For example, further independent and expert advice is provided to Welsh Government from the UK advisory groups, the Air Quality Expert Group and the Committee on the Medical Effects of Air Pollution. This is in addition to advice provided by public sector organisations such as Public Health Wales and Natural Resources Wales.

The ability of Welsh Ministers to determine the source of the advice provides necessary flexibility to obtain expert advice from the most appropriate sources depending on the matter in hand. Putting the Panel on a statutory footing would not change or add to the requirement for Ministers to seek advice. These duties go further than Welsh Ministers' requirements under the existing legislative framework and ensure Ministers are accountable now and in the future.

### **3. There is no requirement on the Welsh Ministers to consult relevant organisations/the public before making regulations setting air quality targets. Why is this?**

The Bill does require Welsh Ministers to seek advice from persons they consider to be independent and to have relevant expertise before making regulations under sections 1 and 2 of the Bill. In addition, the Welsh Government has committed to consult prior to introducing legislation. Full and open public consultation on legislative proposals should provide all stakeholders, including organisations and the public, with the opportunity to provide their views.

### **4. Why have you chosen to extend the timeframe for making regulations by a year?**

We want targets to be ambitious, credible, and supported by society. It is therefore critical that specialists, stakeholders, Members of the Senedd and the public have the chance to comment on, and input into this process. This will ensure relevant evidence is properly gathered, scrutinised and tested.

Targets set under the Bill are required to be achievable. Assessment of feasibility and cost is an essential aspect of target setting to ensure they can be delivered, they minimise inequalities, are affordable and coherent with other government policy. The Bill also requires Welsh Ministers to have regard to scientific knowledge when setting national air quality targets, which will include consideration of the WHO air quality guidelines. We do not yet know whether it is possible to achieve the WHO guidelines everywhere across Wales, and how and by when this could be achieved if it is possible.

We are committed to following an evidence-based process to set ambitious and effective targets in Wales. However, we need to understand the limits of what is possible and associated constraints, based on robust science and socio-economic analysis. This time is necessary as there are a significant number of steps that need to be undertaken. This includes determining the scope of targets, analysing ambitious, affordable and feasible target options, proper engagement and consultation and full drafting of the targets and the details of how they must be assessed. For context, the development of PM<sub>2.5</sub> target regulations in England took the UK Government more than three years to complete.

These considerations will help ensure that, based on the best available evidence, proposed targets are achievable and affordable whilst able to drive the ambitious changes we need to protect the environment.

## **Promoting Awareness about air pollution**

### **5. What consideration did you give to including further detail about the steps the Welsh Ministers would be expected to take to meet the duty in section 8, for example, preparing and publishing a ‘delivery plan’ (referred to in the Explanatory Memorandum)?**

The Explanatory Memorandum sets out that we will publish a delivery plan to implement this duty. In order to explain what we mean by delivery plan, we have given examples of the types of action it could include. These actions have been taken from feedback to our Clean Air Plan consultation, as well as ongoing engagement with stakeholders.

We will develop the delivery plan with stakeholders to ensure it is effective and focuses efforts in the right areas. It is unlikely the actions in the plan will be delivered by Welsh Government alone. A key part of developing the delivery plan with stakeholders will be identifying not just what we need to do, but also who is the most effective delivery partner.

Our consideration has therefore been to balance providing a meaningful description of how the duty will be implemented, with the need to avoid pre-determining the actions the plan could include. This will allow us to develop the scope and content of the plan with stakeholders.

### **6. What arrangements will be put in place to monitor compliance with/effectiveness of the duty, and how does the Bill provide for this?**

The Bill does not contain specific arrangements for monitoring compliance or effectiveness because this provision has intentionally been broadly drafted to avoid limiting the ways in which we can promote awareness of air pollution.

In future there could be new and additional steps Ministers could take to promote awareness of air pollution, which the broad nature of the proposed provision would encompass.

A wide range of perspectives and views will need to be heard to fully evaluate effectiveness of this duty and we do not want to restrict this process. Therefore, we have not included provisions relating to monitoring compliance and effectiveness to avoid narrowing the scope of the duty and ensuring the legislation is future proof.

Arrangements to monitor and evaluate the effectiveness of the actions included in the promoting awareness delivery plan will be developed with stakeholders and included in the delivery plan. If in future the delivery plan is included within Welsh Government air quality strategies, the actions would be subject to the same scrutiny, monitoring and evaluation as the wider plan.

## **National Air Quality Strategy**

### **7. What consideration did you give to including a requirement on the Welsh Ministers to review the national air quality strategy at a set time (e.g. 12 months) following a Senedd election on the face of the Bill?**



We did consider reviewing the national air quality strategy at a set time. However, the Environment Act 2021 established the current five-year review cycle, which was agreed by the Senedd through a Legislative Consent Motion. The statutory review deadline currently falls around two years after the most recent Senedd election, which allows time for a new national air quality strategy to be developed following an election, if Ministers wish it, informed by the Programme for Government, the latest Future Trends Report, and so on. This change achieved one of our policy aims set out in the White Paper on the Clean Air (Wales) Bill. Therefore, the Bill as introduced does not seek to change the current statutory timescale. Setting the deadline one year after the most recent election might not always allow sufficient time for this work to be carried out.

We have taken this approach because the Environment Act 2021 (and for soundscapes, the Environmental Noise (Wales) Regulations 2006) have established five-year review cycles with deadlines currently falling at reasonable points in the Senedd electoral cycle. However, the Bill provides Welsh Ministers with the power to change this review period through regulations. This would be used for example, if the Senedd election cycle changed or if the timing of the review is found not to work for any other reason.

**8. What criteria will the Welsh Ministers use to determine whether to designate a 'devolved Welsh authority' as a 'relevant Welsh public authority' for the purpose of applying the duty under section 11?**

A devolved Welsh authority might need to be designated as a relevant Welsh public authority if (a) it routinely exercises functions of a public nature that Welsh Ministers consider likely to affect air quality in Wales, and (b) there is no other formal requirement in place for every part of that organisation which exercises such functions to have regard to national policy in this area when so doing. (This approach would be applied similarly for soundscapes).

**Smoke Control**

**9. Can you clarify whether the Welsh Ministers could strengthen existing smoke control legislation in the manner outlined above using existing powers, i.e. without the need for further primary legislation?**

The Welsh Ministers have powers under section 19 of the Clean Air Act 1993 to direct local authorities to create smoke control areas where they are satisfied that the local authority has not sufficiently exercised their powers under section 18 of the Clean Air Act 1993 to abate identified air pollution by way of a smoke control order. In principle, this could allow the Welsh Ministers to direct a local authority in relation to any densely populated, urban area where air pollution is being caused by smoke, on a case-by-case basis. Welsh Ministers will work with local authorities to ensure any necessary smoke control areas are established by them under section 18. Powers of direction would only be used as a last resort.

The Clean Air Act 1993, the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019 and the Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2019 set out the legislation for burning in a smoke control area. The existing framework for statutory nuisance is covered by the Environmental Protection Act 1990. Certain, very limited, outdoor burning is captured with the Clean Air Act 1993, that is when smoke is emitted from a chimney such as from a summerhouse.

Extending the scope of legislation around smoke control areas to include outdoor burning beyond that which is already captured in the Clean Air Act 1993 and the Environmental Protection Act 1990 would need to be pursued through primary legislation.

Further work on domestic burning, which includes outdoor burning, is taking place following the consultation on reducing emissions from domestic burning of solid fuels. When proposals are developed to tackle pollution caused by outdoor burning in all areas, we will look at the extent to which we can use existing legislative functions rather than develop primary legislation.

The Bill introduces a requirement for local authorities to have regard to any guidance published by the Welsh Ministers in relation to smoke control areas. The guidance replaces our original 'requirement to review' proposal and will be developed with stakeholders and periodically reviewed and updated.

## **Trunk Road Charging**

### **10. Can you confirm that where a trunk road charging scheme is made by virtue of section 167(3) for the purpose of reducing or limiting air pollution, the Welsh Ministers' share of the net proceeds of the scheme can be applied for any purpose?**

The intention from the outset has been to address the current restriction that requires net proceeds to be used only for transport policies and proposals. This proposal was included in our White Paper on the Clean Air (Wales) Bill.

The transport policy proposals requirement on the use of net proceeds would restrict the action we could take to further address poor air quality. For instance, with the existing arrangements, we might be unable to support some forms of Local Air Quality Management activity, or extend air quality monitoring, or address emissions from industry and domestic burning.

It is important we can demonstrate a clear link between fees levied for the improvement of air quality, and specific measures to further improve air quality that would be funded by these fees.

Hypothecation will not be applied to the use of net proceeds arising from schemes to limit or reduce air pollution in the vicinity of the road. This will give Ministers greater freedom to utilise income most effectively to deliver our policy ambitions.

To reflect the air quality improvement focus, Ministers will be required to assess proposed expenditure against expected impact (if any) on air quality. This will ensure air quality is at the heart of decision-making in this process.

### **11. Can you provide an update on the development of a framework for Clean Air Zones?**

In 2018 we published a draft Clean Air Zone Framework for Wales for consultation. The framework was intended to guide local authority action to improve air quality and reduce polluting emissions. The draft Framework described key considerations including the development of evidence to support the introduction of a charging scheme.

The development of our Clean Air Zone Framework is closely linked to our broader approach to demand management. This includes alternative approaches such as road space reallocation and workplace charging levies, as well as road user charging schemes.

Demand management can help motivate people away from private car use. Our Wales Transport Strategy, Llwybr Newydd, includes a commitment to develop a national road user charging framework. This is also reflected in our National Transport Delivery Plan commitment to develop a Strategy for fair road user charging.

Further work will be undertaken to develop a fair and equitable road user charging framework, including how local authorities can borrow against these future revenue streams to fund transport improvements; and consider other alternatives such as workplace car parking levies and road space reallocation.

This broader framework/strategy will encompass advice on the development and introduction of Clean Air Zones/Low Emission Zones on local authority roads, building on our draft Clean Air Zone Framework for Wales. The document will also describe the circumstances under which Clean Air Zones may be introduced on our trunk road network using new powers within the Bill.

This work will be programmed in due course to ensure we can deliver this in line with the published National Transport Delivery Plan timescales (2022-2026).

## **Anti-Idling**

### **12. Why do you consider the powers to prescribe a monetary range are needed when there is already an existing power to set a fixed penalty amount? What consideration has the Welsh Government given to simply increasing the existing charge?**

The current monetary penalty of £20 is too low to deter people from vehicle idling and the charges do not make it viable for local authorities to prioritise enforcement.

Obviously, penalties must be proportionate. However, local authorities currently have no flexibility in the level of monetary penalty that they issue. We are therefore making provision for local authorities to be able to choose the level of monetary penalty to apply in each case from within a range that will be set in regulations.

Taking a power to set a monetary range in regulations will facilitate enforcement by local authorities or their authorised officers. It gives them a degree of discretion as to the level of fixed penalty that could be awarded for a stationary idling offence.

It also allows flexibility for the level of penalty to reflect the location where the idling occurs. For example, a penalty at the higher end of the range could be imposed where someone is idling outside a school. This is not possible under the current regime where Welsh Ministers only have the power to set a single fixed penalty amount.

We also considered simply increasing the existing charge. Welsh Ministers have the power to do that by making an amendment to the existing Regulations. However, the approach we have taken in the Bill provides far more flexibility for local authorities and enables more effective enforcement.

### **13. What assessment has been made of the impact of both the trunk road charging and anti-idling proposals on those from lower income groups?**

In respect of anti-idling, the relevant regulations set out how the enforcement system should work. A local authority enforcement officer will ask a motorist to stop engine idling and if the motorist complies there will be no fine.

Fines are only issued when the motorist refuses to stop idling after being asked to do so. Our guidance for local authorities will highlight the need to take account of socio-economic factors when designing penalties.

We are aware the level of fixed penalty must be appropriate for local circumstances. If penalties are too high for local conditions for example, in an area of multiple deprivation, there will be many instances of non-payment which would discredit the regime. Moreover, non-payment could lead to even higher penalties for those who have not paid, which could push those already impoverished into further debt. Our guidance will take full account of this sensitive issue.

In terms of trunk road charging fees for drivers of non-compliant (more polluting) vehicles, impacts on lower income groups would need to be considered when developing specific scheme proposals.

An Economic Impact Assessment will be required to evaluate potential impacts that may result from charging schemes and help determine potential mitigations to limit negative consequences. Assessment should consider the full potential impact of a proposed Clean Air Zone, and the costs and benefits should be carefully weighed.

Any action taken to address air quality issues should be proportionate to the scale of the problem, and in line with well-being of future generations requirements.

There would be consultation before any schemes were introduced where there would be ample opportunity to ensure the impact of the scheme on those from lower income groups has been properly evaluated.

## **Soundscapes**

### **14. How does the Welsh Government define ‘soundscapes’?**

“Soundscape” is formally defined in Planning Policy Wales (PPW) edition 11 (footnote 142)<sup>1</sup>, the Noise and Soundscape Action Plan 2018-2023 (footnote 10)<sup>2</sup> and the recent consultation draft of TAN 11 (glossary)<sup>3</sup> in accordance with the British and international standard definition<sup>4</sup>, to mean the acoustic (i.e. sound) environment as perceived or experienced and/or understood by a person or people, in context. We have also defined “appropriate soundscape” to mean the right sound environment in the right time and place. Appropriate soundscapes and clean air are two of the National Sustainable Placemaking Outcomes established in PPW.

### **15. What consideration did you give to including a definition of ‘soundscapes’ in the Bill?**

It was considered, but we know British and international standards are subject to periodic review and update. The definition of soundscape endorsed by the acoustics community has been established for less than a decade. If it were to be refined in a few years’ time, for example to broaden it beyond human listeners to include how some animals experience and perceive sound in context, the Welsh Government might wish to adopt the latest definition in policy. Making such a change in national policy documents like PPW and the Noise and Soundscape Plan, which are also subject to periodic review and update, would

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<sup>1</sup> [Planning policy Wales | GOV.WALES](#)

<sup>2</sup> [Noise and soundscape action plan 2018 to 2023 | GOV.WALES](#)

<sup>3</sup> [Revised planning guidance in relation to air quality, noise and soundscape | GOV.WALES](#)

<sup>4</sup> [BS ISO 12913-1 - Acoustics. Soundscape. Definition and conceptual framework \(bsigroup.com\)](#)

be relatively straightforward. Amending a definition enshrined in primary legislation would not.

**16. What consideration did you give to establishing a Soundscapes Advisory Panel to provide expert advice to the Welsh Ministers (comparable to the Clean Air Advisory Panel)?**

The Welsh Government obtains advice and support from many different noise and soundscape practitioners, who cover between them a wide range of specialisms. The areas of expertise needed from time to time include large-scale computer modelling and data handling for national noise mapping, systematic reviews of academic research to summarise evidence on health and well-being, the practical application of powers to investigate noise complaints and take enforcement action, public participation in soundscape assessment and interventions at a local community level, noise control engineering, and many other areas of specialist knowledge.

We access these experts in several ways, including through existing government procurement frameworks, our own well-established network of Welsh noise regulators, and our membership of, and participation in, British Standards Institute noise committees, the Institute of Acoustics (IOA), and the UK Acoustics Network (UKAN+).

These arrangements have served us well to date. We are willing to consider any case made for the establishment of a more formal standing advisory panel on soundscapes, akin to the Clean Air Advisory Panel. However, such a committee would require a very broad and flexible membership if it is to cover all the issues and evidence needs within scope of a national soundscapes strategy. We would also need to be convinced that the value it adds to the current arrangements would outweigh administrative costs.

**17. How will the Welsh Ministers monitor the effectiveness of the national soundscapes strategy in reducing levels of noise pollution?**

The national soundscapes strategy must contain the Welsh Ministers' policies with respect to the assessment and management of soundscapes in Wales, and our policies for assessing and reducing levels of noise pollution.

Population exposure to noise pollution is difficult to quantify reliably at a national scale. Certain types of outdoor sound, such as from transportation, can be modelled at a national level by computers. However, the software and calculation methods are constantly evolving. The "strategic noise maps" so generated do not tell us how well different buildings are protecting the people inside, which depends on room layout and methods of construction. This means that even for road and railway noise, reliably quantifying real-world changes in the population's overall noise exposure over time has so far been elusive. For other major forms of noise, such as neighbour noise, public authorities only become aware when people make formal complaints, and these are not always recorded and reported consistently. Our National Survey noise questions found in both 2017-18 and 2021-22 that a quarter of people in Wales are regularly bothered by noise from outside their homes. A large part comes from their neighbours, but many of these people do not make formal noise complaints to their local authority.

Our most reliable measure of the prevalence of noise annoyance in Wales is the National Survey. We hope to re-run the noise questions asked in 2017-18 and 2021-22 from time to time. We also continue to report hard-hitting headline results, such as the evident correlation between regular noise annoyance and area deprivation, in the Noise and Soundscape Plan, which is our national soundscapes strategy. As more people come to live in closer proximity to one another within our towns and cities, realistically we do not expect to see rapid or dramatic improvements in the overall response to the questions asked.

Where government can improve the current picture and prevent new problems from arising we will seek to do so, including through the policies contained in the Plan.

In the current financial climate the principal realistically achievable goal of the Noise and Soundscape Plan 2023-2028 will be to ensure noise and soundscapes are properly considered in decision-making by public bodies. This is in a manner consistent with the ways of working in the Well-being of Future Generations Act, to avoid creating new noise problems, and to maximise benefits from any opportunities arising to reduce existing noise levels and promote healthier soundscapes. We intend to consult on our updated national soundscapes strategy this summer.

Any actions taken under the strategy must respond to events and policy development in other areas. Our 2018 Plan could not have predicted the lockdowns of 2020 and the subsequent rapid uptake of working from home. Nor was it known at that time where policy would be five years later in relation to our Clean Air Bill, speed limits, fireworks and new technologies such as air source heat pumps. But the broad guiding principles and ways of working contained in the Plan have proven valid and relevant to all those things and will continue to be relevant to whatever issues come up affecting soundscapes in Wales over the course of the next five years.

The success of the new Noise and Soundscape Plan should be judged by how well the Welsh Government and other public bodies factor the health and well-being impacts of changing soundscapes into their decision-making processes over the course of the next five years. This includes planning decisions, transport policies, decarbonisation initiatives and air quality interventions. Putting the Plan on a more solid legal foundation as the national soundscapes strategy will raise its profile and, we hope, its effectiveness in guiding informed decision-making.

**18. What consideration did you give to including a requirement on the Welsh Ministers to report on progress towards the implementation of the national soundscapes strategy?**

We would expect that the public consultation on each five-year review and update of the national soundscapes strategy will include a report on how effectively the previous iteration of the strategy has been implemented. This will be necessary to determine any modifications required.

I hope you find the responses to the questions raised in your letter helpful.

Yours sincerely



**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

## Welsh Affairs Committee

House of Commons London SW1A 0AA

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### From: The Chair of the Committee

Llyr Gruffydd, MS

Chair, Climate Change, Environment and Infrastructure Committee

Senedd Cymru

Cardiff Bay, Cardiff

CF99 1SN

[via email]

24 April 2023

Dear Llyr,

The House of Commons Welsh Affairs Committee has held two evidence sessions examining water quality in Wales, in response to concerns about water pollution in Welsh rivers and seas, particularly as a result of sewage discharges. I know that this has been an area of interest and work for your Committee.

Following our evidence sessions, I have written to the Welsh Government asking for an update on the measures it is taking. Please find the letter enclosed.

This is a subject to which we may return. If you felt it helpful, we would be interested in working jointly with your Committee, to enable us better to scrutinise this area of concern to us both.

Yours sincerely,



Rt Hon Stephen Crabb MP

# Welsh Affairs Committee

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**From: The Chair of the Committee**

Julie James MS, Minister for Climate Change, Welsh Government  
5<sup>th</sup> Floor, Tŷ Hywel  
Cardiff Bay  
CF99 1NA

[via email]

24 April 2023

Dear Julie,

My Committee recently held two evidence sessions focused on the regulation of water companies in Wales in the context of growing concern about poor water quality as a result of sewage discharges.

We heard, in our first session, from representatives of Surfers against Sewage and Afoyndd Cymru, and the environmental campaigner, Angela Jones. In the second session we questioned Natural Resources Wales and the UK regulator, Ofwat, followed by the two water companies operating in Wales, Dŵr Cymru and Hafren Dyfrdwy.

We were grateful for the engagement by these bodies. We were very concerned, however, by the evidence we heard about the condition of Welsh rivers and coastal waters and the current approaches to monitoring, enforcement, and regulation.

Key points of concern include:

- the accuracy of monitoring equipment, and therefore reliability of data;
- the lack of monitoring of the volume of sewage discharged as well as the frequency of outflows;
- the frequency of “unpermitted” sewage discharges from storm overflows; and
- the low number of prosecutions in Wales to enforce water quality regulations and the apparent lack of appetite from regulators for stronger enforcement powers and sanctions.

We were also concerned at the apparent lack of urgency in tackling these challenges on the part of regulators and water companies. Although data collection on sewage discharges began in 2013, the response of regulators and water companies appears to be to pursue further research into the impact of the discharges up to 2027. The significant work required to replace Wales’s combined sewerage system means there is no time to lose, and regulators and companies need to have a clear long-term plan stretching over medium term.

The general view of the Committee was that there seemed to be a lack of a clear and timely plan to address the issues highlighted, including the sheer quantity of sewage being discharged. We would, therefore, be interested to know what steps are being taken by the Welsh Government to address this set of problems. I would be grateful for your reply by 15 May.



I know that the problems of water pollution are of concern to all the people of Wales. Our counterparts on the Senedd Climate Change, Environment and Infrastructure Committee have previously published reports on this subject and I am copying this letter to the chair, Llyr Gruffydd MS.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen', followed by a small dash.

Rt Hon Stephen Crabb MP

# Agenda Item 9

By virtue of paragraph(s) vi of Standing Order 17.42

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