
D I R E C T I O N

ENVIRONMENT ACT 1995

Environment Act 1995 (Gateshead Council, Newcastle City Council and North Tyneside Council) Air Quality Direction 2019

The Secretary of State, in exercise of the power conferred by section 85(5) of the Environment Act 1995(a), gives the following direction.

In accordance with section 85(6) a copy of this direction will be published in the London Gazette.

The Secretary of State makes this direction having determined that it is necessary in order to meet obligations placed upon the UK under the EU Ambient Air Quality Directive(b).

Citation, commencement and application

1.—(1) This direction may be cited as the Environment Act 1995 (Gateshead Council, Newcastle City Council and North Tyneside Council) Air Quality Direction 2019 and comes into force on the day after it is made.

(2) This direction applies to—

- (a) Gateshead Council;
- (b) Newcastle City Council;
- (c) North Tyneside Council.

Interpretation

2. In this direction—

“the 2000 Act” means the Transport Act 2000(c);

“AQP” means the UK plan for tackling roadside nitrogen dioxide concentrations 2017, drawn up by the Secretary of State in accordance with regulation 26(1) of the Air Quality Standards Regulations 2010(d);

“the authorities” means —

- (a) Gateshead Council;
- (b) Newcastle City Council;
- (c) North Tyneside Council;

(a) 1995 c.25.

(b) 2008/50/EC OJ No. L 152, 11.06.08, p.1.

(c) 2000 c.38.

(d) S.I. 2010/1001. A copy of the plan is available at: <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>

“feasibility study” means a study, conducted by the authorities in accordance with HM Treasury’s Green Book approach, to identify at least one scheme that will deliver compliance with legal limits for nitrogen dioxide in a given area in the shortest possible time as part of the AQP;

“full business case” means a document that sets out detailed proposals for a scheme which has been identified through a feasibility study as the authorities’ preferred scheme to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time. It sets out the commercial and contractual arrangements, affordability, and management arrangements to ensure successful delivery of the scheme.

“local transport policies” has the meaning given by section 108(5) of the 2000 Act(a);

Duty to prepare and submit a full business cases and take intervening steps

3.—(1) The authorities must as part of their feasibility study continue with the work necessary to prepare a full business case for the areas for which they are responsible.

(2) The authorities must, as part of paragraph (1), prepare the necessary final air quality, transport and economic modelling outputs for the baseline and the scenario modelling for both of the options under development (which must include consideration of additional measures and the financial and delivery detail of both options), such modelling must be submitted to the Secretary of State as soon as possible and by 8 August 2019 at the latest.

(3) When submitting the modelling under paragraph (2) the authorities must confirm which of the modelled options the authorities will take forward to statutory consultation.

(4) The full business case must be submitted to the Secretary of State as soon as possible and by 12 November 2019 at the latest.

Inquiry in respect of a full business case

4.—(1) The authorities must only exercise their power to hold a local inquiry, whether under section 170(2)(a) of the 2000 Act or otherwise, in relation to any scheme they identify as part of their feasibility study and in preparing the full business case in accordance with this Article.

(2) The authorities may only hold a local inquiry if it is necessary to do so, notwithstanding any other opportunities which the authorities have or could have provided for representations to be made in relation to the scheme.

(3) Before an inquiry is held in accordance with paragraph (2), the authorities must consult the Secretary of State and—

- (a) submit to the Secretary of State reasons why the authorities believe an inquiry is necessary,
- (b) submit a proposed timetable for the completion of the inquiry, and

(a) Section 108(5) was inserted by section 7(1) and (2) of the Local Transport Act 2008 (c.26).

(c) inform the Secretary of State whether the inquiry will be in addition to or instead of any other opportunity to make representations about the scheme identified in the full business case.

(4) Where the authorities consult the Secretary of State under paragraph (3), the authorities can only begin the inquiry if it has received consent from the Secretary of State including for the timetable for the completion of the inquiry.

(5) In this direction, a reference to holding a local inquiry includes a reference to causing a local inquiry to be held.

Submission of the full business case to the Secretary of State

5. When submitting the full business case, the authorities must provide the Secretary of State with the following information—

- (a) the date on which it is proposed that the scheme identified in the full business case will come into effect;
- (b) confirmation that all public consultation necessary in respect of the scheme identified in the full business case, has been completed (including where applicable consultation in accordance with section 170(1A), (1C) or (5)(a) of the 2000 Act(a));
- (c) a summary of any responses received in response to any consultation and of the changes (if any) made to the scheme identified in the full business case following that consultation;
- (d) where the full business case proposes a scheme in connection with which the authorities intend to exercise powers under the 2000 Act, confirmation that the scheme facilitates the achievement of the local transport policies (where applicable) which apply in the authorities' area;
- (e) confirmation—
 - (i) that no local inquiry under has been held or is due to be held, or
 - (ii) that a local inquiry has taken place in accordance with the consent and timetable agreed by the Secretary of State under Article 4 of this Direction.

Guidance

6. The authorities, in taking steps under this direction, must have regard to relevant guidance issued by the Secretary of State.

3 June 2019

Thérèse Coffey MP
Parliamentary Under Secretary of State
Department for Environment Food & Rural Affairs

(a) Section 170(1A) and (1C) were substituted, for subsection (1) as originally enacted, by section 111(2) of the Local Transport Act 2008. Section 170(1A) was amended by paragraph 110(2) of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 170(5) was amended by paragraph 6(2) of Schedule 5 to the Local Transport Act 2008.

EXPLANATORY NOTE

(This note is not part of the direction)

This direction directs Gateshead Council, Newcastle Council and North Tyneside Council to prepare and submit to the Secretary of State further air quality transport and economic modelling and a full business cases in connection with their duties in respect of air quality under Part 4 of the Environment Act 1995 and as part of the UK plan for tackling roadside nitrogen dioxide concentrations 2017. The full business case must set out detailed proposals for a scheme which is the authorities' preferred measure to deliver compliance in their areas with the legal limit value for nitrogen dioxide in the shortest possible time. Under section 85(7) of the Environment Act it is the duty of a local authority to comply with a direction given to it. A copy of this direction is available for inspection at Seacole Building, 2 Marsham Street, London, SW1P 4DF.