

ENVIRONMENT ACT 1995

Environment Act 1995 (Bath and North East Somerset Council) (No. 2) 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 (Bath and North East Somerset Council) (No. 2) Air Quality Direction 2019 and comes into force on the day after it is made.

(2) This direction applies to Bath and North East Somerset Council.

Interpretation

2. In this direction—

“the authority” means Bath and North East Somerset Council;

“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^(c);

“full business case” means a document that sets out the commercial and contractual arrangements, affordability, and management arrangements to ensure successful delivery of the scheme detailed in the local plan for NO₂ compliance;

“local plan for NO₂ compliance” means the detailed scheme (excluding any associated mitigation measures) which the authority identified as part of the AQP to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time that was approved by the Secretary of State on 18 March 2019 and is summarised in Schedule 1.

^(a) 1995 c25.

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

^(c) 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>.

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

Revocation of previous direction

3. The Environment Act 1995 (Bath and North East Somerset Council) Air Quality Direction 2019 is hereby revoked.

Duty to implement the local plan for NO₂ compliance

4.—(1) The authority must take steps to implement the local plan for NO₂ compliance for the areas for which it is responsible.

(2) The authority must ensure that the local plan for NO₂ compliance is implemented so that—

- (a) compliance with the legal limit value for nitrogen dioxide is achieved in the shortest possible time, and by 2021 at the latest;
- (b) exposure to levels above the legal limit for nitrogen dioxide are reduced as quickly as possible.

Duty to prepare and submit a full business case

5.—(1) The authority must prepare a full business case for the areas for which it is responsible.

(2) The full business case must be submitted to the Secretary of State as soon as possible and by 13 December 2019 at the latest.

Inquiry in respect of a full business case

6.—(1) The authority 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 authority 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 authority 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
- (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 authority consults the Secretary of State under paragraph (3), the authority 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.

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

(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

7. When submitting the full business case, the authority 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 authority 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 authority's 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 6 of this Direction.

Variation, revocation or suspension

8. The authority must not vary, revoke or suspend its implementation of the local plan for NO₂ compliance pursuant to Article 4, without the prior written consent of the Secretary of State.

Guidance

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

Rebecca Pow MP
Parliamentary Under Secretary of State for the Environment
Department for the Environment Food & Rural Affairs

16 October 2019

(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.

SCHEDULE 1

Article 2

Summary of local plan for NO₂ compliance measures

Measures description	Deadlines
Charging Clean Air Zone (class C with additional junction changes at Queens Square)	To be implemented as soon as possible and at least in time to bring forward compliance to 2021

EXPLANATORY NOTE

(This note is not part of the direction)

This direction directs Bath and North East Somerset Council and, for the purposes of this direction is referred to as “the authority”, to implement its local plan for NO₂ compliance, in connection with 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 local plan for NO₂ compliance was approved by the Secretary of State on 18 March 2019, and it must now be implemented to ensure compliance with the legal limit value for nitrogen dioxide is achieved in the authority’s areas 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 at for inspection at Seacole Building, 2 Marsham Street, London, SW1P 4DF.