

ENVIRONMENT ACT 1995

Environment Act 1995 (Liverpool City Council) Air Quality Direction 2021

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 (Liverpool City Council) Air Quality Direction 2021 and comes into force on the day after it is made.

(2) This direction applies to Liverpool City Council.

Interpretation

2. In this direction—

“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);

“the authority” means Liverpool City Council;

“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 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.

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

Duty to prepare and submit a full business case

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

(a) 1995 c.25.

(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>.

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

(2) The full business case must be submitted to the Secretary of State as soon as possible and by 1 March 2022 at the latest.

Inquiry in respect of a full business case

4.—(1) The authority must only exercise its power to hold a local inquiry in relation to any scheme in its 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 authority has 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 authority believes 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.

(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 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;
- (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) 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

6. 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

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

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

5 July 2021

EXPLANATORY NOTE

(This note is not part of the direction)

This direction directs Liverpool City Council, and for the purposes of this direction is referred to as “the authority”, to provide a full business case, 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.. 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.