

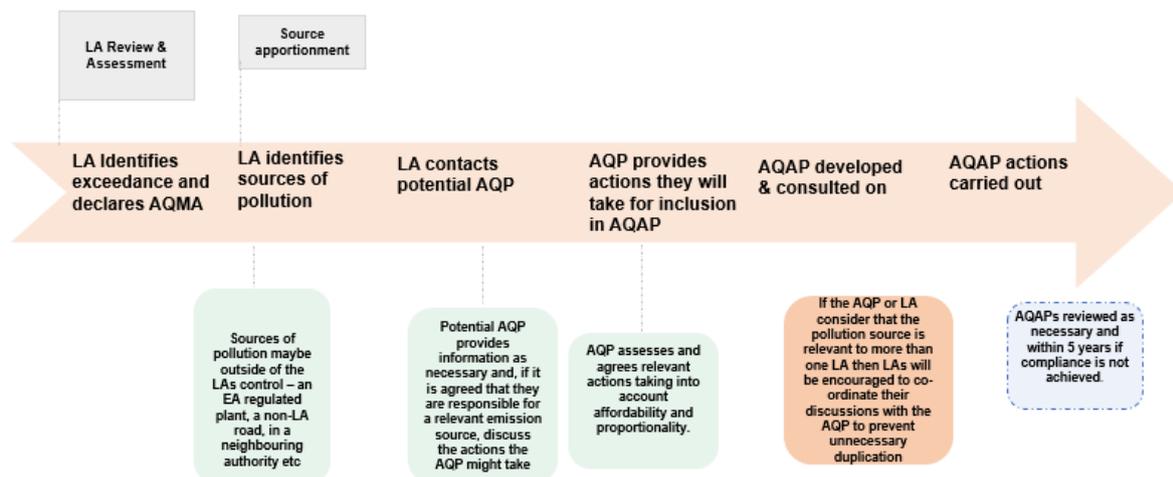
Annex A

Proposed section on Air Quality Partners for inclusion in the revised LAQM guidance

Engaging with Air Quality Partners

The Environment Act 2021 introduces a new concept of ‘air quality partners’ into the LAQM framework. Air Quality Partners (AQPs) are required to assist local authorities with reasonable requests, such as information within the AQP’s control and knowledge (for example by providing information on a source of air pollution), and contribute to action plans being developed by local authorities.

Securing actions from Air Quality Partners



Air Quality Partners may be: a neighbouring local authority; a designated Relevant Public Authority; the Environment Agency. **When a local authority’s assessment of air quality indicates that local air quality objectives are, or are likely to be, exceeded, the local authority will declare an Air Quality Management Area.** The local authority will conduct a source apportionment exercise to identify sources of pollution (assessment of the sources of pollution contributing to the exceedance – see technical guidance). It is likely that some sources of pollution will be outside of the control of the local authority. In these circumstances the local authority will need to contact any organisations or bodies that may be responsible for a source of pollution to elicit from them actions to reduce emissions. Where such organisations or bodies are; a neighbouring local authority, a designated Relevant Public Authority, the Environment Agency, or a county council, there is a statutory requirement for them to engage and to contribute actions they will take to secure achievement of the local air quality objective (and to maintain achievement thereafter).

Air Quality Partners are required to collaborate with local authorities and to commit to actions for inclusion in Air Quality Action Plans where such actions are needed to meet local air quality objectives.

County councils in two tier authorities are similarly required where relevant to collaborate with local authorities and to commit to actions for inclusion in Air Quality Action Plans.

Where a local authority in England intends to prepare an action plan it must notify each of its AQPs that it intends to do so. When a potential AQP is contacted, the local authority and the potential AQP should first seek to establish whether a relevant source of pollution exists broadly within the influence or control of the potential AQP. If that is established, then the conversation can move on to establishing the measures the AQP will take for inclusion within the Action Plan. The AQP must provide any reasonable assistance requested in connection with these discussions. A request will not be reasonable if it is disproportionately onerous or expensive, or if it conflicts with core statutory duties or is not relevant to the AQPs functions. An AQP may refuse an unreasonable request.

It is for the AQP to determine the measures they will take, which may or may not be any suggested by the local authority. The AQP must commit to measures and must specify a date by which the measures will be carried out, and as far as reasonably practicable must carry out those measures by the date specified. The AQP should aim to commit to measures they will take for inclusion in the Action Plan in good time for the local authority to meet their target to produce the Action Plan within 12 months of declaring the AQMA.

Disputes and power of direction

Local authorities and their AQPs are expected to reach agreement on actions for inclusion in Action Plans. Areas of disagreement or potential dispute should be resolved amicably. However, areas of disagreement may still arise which are not resolved. These may be in regard to:

- i. whether a request for information under 85A of the Environment Act 1995 is reasonable and necessary to secure the achievement and maintenance of air quality standards and objectives in the area to which the plan relates.
- ii. Disagreement over whether a potential AQP has a relevant source of pollution for which it is responsible for
- iii. Disagreement over whether measures proposed by an AQP for inclusion in the Action Plan are sufficient and timely.
- iv. Disagreement over whether measures proposed by an AQP are of a suitable priority when compared to other actions of the local authority

In the event of significant unresolved disagreement existing after meaningful attempts to reach agreement:

The LA should notify the potential AQP in advance that it intends to refer the matter to the Secretary of State providing an outline of their case of dispute and providing the AQP at least 20 working days to respond.

If the LA concludes that they have not received a satisfactory response to the notification, they may refer the matter to the Secretary of State outlining their case of dispute and the steps they have taken to seek amicable agreement. Such complaints should be sent to Secretary of State c/o Air.quality@defra.gov.uk

Upon receipt of a complaint Defra will inform the potential AQP that a complaint has been received and will provide the details of the complaint to the AQP and will invite the AQP to respond within 20 working days.

The Secretary of State may conclude that there is insufficient evidence of meaningful attempts to seek prior resolution before lodging the complaint in which case the LA will be advised to seek further engagement with the AQP aiming to resolve the dispute. If such attempts are unsuccessful the LA may resubmit their complaint outlining the further action they have taken to seek resolution.

Defra will respond to a properly submitted complaint that will:

- i. Advise that Defra officials consider that the request for information is considered a. necessary or b. not necessary.
- ii. Advise that Defra officials consider that the LA has or has not presented sufficient evidence that the AQP is responsible for a source of pollution contributing to an exceedance of a local objective.
- iii. Advise that Defra officials consider that measures proposed by the AQP for inclusion in the AQAP are sufficient or insufficient. If insufficient advice may outline the area or areas in which the proposed actions are considered insufficient e.g. scope of proposed measures or timetable for completion.

A response to iii. may be accompanied by a Ministerial Direction requiring the AQP to commit to further measures

In the event of a AQP wishing to raise a dispute:

The AQP should notify the LA in advance that it intends to refer the matter to the Secretary of State providing an outline of their case of dispute and providing the LA at least 20 working days to respond.

If the AQP concludes that they have not received a satisfactory response to the notification, they may refer the matter to the Secretary of State outlining their case of dispute and the steps they have taken to seek amicable agreement. Such complaints should be sent to Secretary of State c/o Air.quality@defra.gov.uk

Upon receipt of a complaint Defra will inform the LA that a complaint has been received and will provide the details of the complaint to the LA and will invite the LA to respond within 20 (*tbc*) working days.

The Secretary of State may conclude that there is insufficient evidence of meaningful attempts to seek prior resolution before lodging the complaint in which case the AQP will be advised to seek further engagement with the LA aiming to resolve the dispute. If such attempts are unsuccessful the AQP may resubmit their complaint outlining the further action they have taken to seek resolution.

Defra will respond to a properly submitted complaint that will:

- i. Advise that Secretary of State considers that the request for information is considered a. necessary or b. not necessary.
- ii. Advise that Secretary of State considers that the LA has or has not presented sufficient evidence that the AQP is responsible for a source of pollution contributing to an exceedance of a local objective.
- iii. Advise that Secretary of State considers that measures proposed by the AQP for inclusion in the Action Plan are sufficient or insufficient. If insufficient advice may outline the area or areas in which the proposed actions are considered insufficient e.g. scope of proposed measures or timetable for completion.

A response to iii. may be accompanied by a Ministerial Direction requiring the AQP to commit to further measures

Working with neighbouring Local Authorities

A local authority with an exceedance or likely exceedance of an air quality standard or objective may conclude that a relevant source of pollution is within the area of a neighbouring local authority (i.e. sharing a border). In these circumstances the local authority with the exceedance shall engage the neighbouring LA as set out in the above section – ‘engaging with Air Quality Partners’.

The two local authorities may opt to declare a joint AQMA and corresponding Action Plan.

Disputes should be resolved following the process outlined under ‘Disputes and Power of Direction’.

Relevant Public Authorities

The Secretary of State has the power [footnote link to Part IV EA95] to designate by regulations “Relevant Public Authorities” (RPAs). RPAs will be authorities with functions of a public nature relevant to local air quality. Once designated RPAs can be required to act as “Air Quality Partners” if they are in any way responsible for a source or sources of emissions contributing to an exceedance of a local air quality objective.

The list of designated RPAs will change over time, so local authorities are advised to check the LAQM website for the current list. Local authorities who consider that it would benefit local air quality if a body with functions of a public nature not yet designated be designated are invited to contact Defra (airquality@defra.gov.uk) to discuss the case for designation.

Working with National Highways

National Highways (NH), formerly Highways England, is a government-owned company with responsibility for managing the Strategic Road Network (SRN) - motorways and major A roads in England. As such, NH is a key partner of local authorities (along with County Councils in two-tier authorities) in addressing localised pollution caused by road vehicles. To ensure that the air quality and environmental effects of all planned interventions on the road network are thoroughly understood before they are implemented, local air quality and transport teams should work in partnership with National Highways. Early engagement at the planning stage is vital to maximise opportunities to improve air quality and to avoid creating areas of high pollution concentrations. Avoiding problem areas arising in the first place will always be preferable to responding to exceedances of air quality objectives once these have occurred.

For each local authority area National Highways have an Air Quality Contact who acts as the first port of call for local authorities to discuss air quality issues. [\[Contact details can be found at...\]](#)

The majority of current AQMAs have been declared for NO₂ because of road transport emissions. In some cases, relevant sources will directly or indirectly arise from vehicles using the SRN. As a designated Relevant Public Authority, NH will be an “Air Quality Partner” in such circumstances once contacted by the local authority (see above section “Engaging with Air Quality Partners”).

In the event of source apportionment identifying transport on the SRN as contributing to an exceedance, or likely exceedance, of an air quality objective the LA should contact NH. The LA should provide to NH (and vice versa) any modelling and / or monitoring data relevant to the conclusion that transport on the SRN is contributing to an exceedance.

Disputes should be resolved following the process outlined under ‘Disputes and Power of Direction’. However, Defra will not respond without first agreeing the response with the Department for Transport (DfT).

Role of National Highways in relation to Action Plans

Any direction issued under new Section 85B of The Act in relation to National Highways will be issued with the agreement of the Department for Transport Secretary of State. The Secretary of state may opt to use alternative governance arrangements to secure the same results.

Following an extensive programme of air quality research undertaken by National Highways, the following measures have been identified as effective at contributing to reducing roadside levels of annual mean NO₂ concentrations and consequently could be considered for inclusion in an Air Quality Action Plan, for instance:

- Speed limits – subject to the installation and legal processes to introduce a speed limit, and likely to be limited to 60mph.
- Local traffic management interventions – where local studies show that changes in traffic could lead to an improvement in air quality, whilst not causing a challenge to the achieving the air quality objective elsewhere.