



Department  
for Environment  
Food & Rural Affairs

# Consultation on designation of National Highways as a “Relevant Public Authority” under Part IV of the Environment Act 1995

**March 2022**

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We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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## Introduction

This consultation is being carried out to seek your views on the proposal to designate National Highways as a relevant public authority. It also seeks your views on our assessment of costs and burdens and our proposed statutory guidance setting out how local authorities and National Highways should work together within the Local Air Quality Management Framework in England.

## Background

Poor air quality is the greatest environmental risk to public health in the UK. It is known to worsen pre-existing health conditions, such as respiratory and cardio-vascular illnesses, especially for the elderly and infants. Local authorities have a central role to play in achieving improvements in air quality. Their local knowledge and interaction with the communities they serve mean that they are better able to know the issues on the ground and the solutions that may be necessary or appropriate to the locality.

Local authorities have told us that the absence of a legislative requirement to ensure co-operation from partners is often a barrier to securing meaningful local action to improve ambient air quality and successful implementation of Air Quality Action Plans. We propose to use new powers within the Environment Act 2021 to require National Highways to work with local authorities where this is necessary to reduce local pollution concentrations where these are likely to breach compliance levels.

## Improvements to the Local Air Quality Management (LAQM) Framework

In the Environment Act 2021, we amended the Environment Act 1995<sup>1</sup> (“the 1995 Act”) to strengthen the requirement for Air Quality Action Plans (AQAPs) so that these must show how the measures in the plan will meet air quality objectives. The strengthening of the legal requirement for AQAPs can only lead to the improvements needed if relevant partners commit to actions alongside local authorities. Amendments to the 1995 Act will also enable greater co-operation between local authorities and all tiers of local government, including neighbouring local authorities, by introducing a clearer legislative requirement for County Councils and neighbouring local authorities to work collectively in developing and delivering AQAPs.

We are also introducing a new power for the Secretary of State to **designate “Relevant Public Authorities”** who may then be required to act as ‘Air Quality Partners’ within the LAQM Framework. Air Quality Partners are required to co-operate with local authorities to reduce pollution levels where there are exceedances, or likely exceedances, of LAQM

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1995/25/contents>

pollution limits. Relevant Public Authorities can be designated and become Air Quality Partners under the amended framework, where the authority carries out duties of a public nature that impact upon air quality. This new framework will result in relevant authorities at local level taking effective, **collaborative action** to deliver air quality standards and objectives. The 2021 Act requires that there will be a public consultation before any Relevant Public Authority is designated.

## Air Quality Management Areas (AQMAs) in England & the challenge from road vehicles

As at October 2021, **246 local authorities in England**<sup>2</sup> have one or more Air Quality Management Areas (AQMAs) declared where Air Quality Objectives are not met. Some AQMAs are for more than one pollutant, and many local authorities have more than one AQMA. There are currently **524** AQMAs for all monitored pollutants in England. Most AQMAs are in urban areas and the vast majority have been established to address the contribution to air pollution from traffic emissions of nitrogen dioxide. Local authorities have identified road transport as the primary source for over **90% (496)** of AQMAs. For a further **17** road transport has been identified as a contributory source. Information on England's AQMAs is summarised in Figures 1 and 2 below.

**Fig 1: Current AQMAs by pollutant in England - October 2021**

| Pollutant                           | England | London |
|-------------------------------------|---------|--------|
| Nitrogen dioxide NO <sub>2</sub>    | 510     | 33     |
| Particulate Matter PM <sub>10</sub> | 37      | 28     |
| Sulphur dioxide SO <sub>2</sub>     | 6       |        |

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<sup>2</sup> <https://uk-air.defra.gov.uk/aqma/>

**Fig 2: Current AQMAs by source in England - October 2021**

| Source                                     | Nº of Current AQMAs by Source |
|--|-------------------------------|
| Road transport unspecified                 | 200                           |
| County or Unitary Authority Road           | 181                           |
| Mixture of road types                      | 72                            |
| Highways Agency Road                       | 43                            |
| Transport and Industrial Source            | 12                            |
| Industrial Source                          | 8                             |
| Transport, Industrial and domestic sources | 5                             |
| Domestic Heating                           | 1                             |
| Railways                                   | 1                             |
| Not Defined                                | 1                             |

The UK government has policy responsibility for air quality in England. Local authorities know their areas best and are best placed to take the lead in rectifying problems at a local level. The Mayor of London has additional statutory functions and responsibilities. The Government supports local authorities and public transport providers via central guidance and access to various grant funding schemes.

In priority areas of NO<sub>2</sub> exceedance, local authorities have been required to draw up plans to bring about compliance with statutory limits in the shortest possible time as part of the

UK Plan for Tackling Roadside Dioxide Concentrations<sup>3</sup> published in July 2017, supported by Government funds.

The Government is also taking measures to reduce road transport emissions through the Road to Zero<sup>4</sup> strategy, which outlines the Government mission to put the UK at the forefront of the design and manufacturing of zero tailpipe emission vehicles. We have committed to phase out the sale of new petrol and diesel cars and vans by 2030, and all new cars and vans to be fully zero emission at the tailpipe from 2035. The Government is investing to support the aim that half of all journeys in towns and cities will be cycled or walked by 2030. This includes £438m invested in Active Travel in the 2021/22 financial year<sup>5</sup>.

The Environment Act also introduces a new power to compel vehicle manufacturers to recall vehicles for environmental non-conformity or failure to meet environmental standards, which will help us to better tackle key sources of nitrogen dioxide.

As the vehicle fleet continues to become cleaner, emissions of NO<sub>2</sub> will continue to reduce. However, it will remain necessary for local authorities to also act locally to reduce pollution concentrations for some years to come. In addition to NO<sub>2</sub>, road transport also contributes around 12% of PM<sub>2.5</sub> emissions, mainly from tyre and brake wear. Many of the actions to reduce NO<sub>2</sub> will contribute to reductions in PM<sub>2.5</sub>.

## The role of local Air Quality Partners

The Environment Act gives the Secretary of State a new power to designate bodies - subject to consultation - via new Section 81A of Part IV of the 1995 Act. A body designated under section 81A will have a duty to co-operate to support the development of local authority action plans where they have been identified by a local authority as being responsible for a source of pollution contributing to a local air quality problem.

Once a body has been designated as a Relevant Public Authority and then identified by a local authority as responsible for the reduction of a contributory source of pollution in its area, the body will play the role of Air Quality Partner within Local Air Quality Management. The Air Quality Partner must then provide details of the actions it will take to reduce its contribution to a local air quality problem. It is for the Air Quality Partner P to determine which actions it can reasonably take. These actions will then be detailed in the local Air Quality Action Plan.

An Air Quality Partner will also be expected to provide the local authority with assistance in the context of developing and implementing an Action Plan as “reasonably requested”. It is for the Air Quality Partner to determine whether any local authority request in the context

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/633270/air-quality-plan-detail.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633270/air-quality-plan-detail.pdf)

4 <https://www.gov.uk/government/publications/reducing-emissions-from-road-transport-road-to-zero-strategy>

5 <https://www.gov.uk/government/publications/gear-change-one-year-on-review>

of Part IV of the Environment Act is reasonable. A request may be considered unreasonable on grounds of disproportionate cost, feasibility, relevance, or incompatibility with the air quality partners' legal obligation. An AQP may refuse an unreasonable request.

If the local authority feels the Air Quality Partner has not agreed to sufficient action, they would need to appeal to the Secretary of State. The Secretary of State can direct an Air Quality Partner to make further proposals for action where existing proposals are considered insufficient. This is limited to directing that an Air Quality Partner proposes further actions. It does not give the Secretary of State power to determine the measures the Air Quality Partner will take.

## The case for designating National Highways

National Highways already work with local authorities to improve air quality. Designation will ensure a more consistent approach to such collaborative working and will bring the need for joint working into the legal framework of LAQM. 43 AQMAs have been identified as being caused by emissions from vehicles using the Strategic Road Network (SRN) and there are likely to be other AQMAs where emissions from the SRN contribute to exceedance of local air quality objectives.

Local authorities have told us that sources of pollution outside of local authority control is a significant obstacle to addressing exceedances of local air quality objectives, and that obtaining collaboration from partners needs to have a legal footing. Through the Environment Act 2021 we are strengthening the requirement on County Councils where there are two tier authorities to collaborate on AQ Action Plans. We have also placed duties on the Environment Agency to act as an Air Quality Partner where relevant to a local exceedance (non-road sources). The inclusion of National Highways in this legal framework will complete the picture as far as public bodies with a national role are concerned.

Designation should therefore contribute to meeting local air quality objectives in areas where emissions from use of the SRN contribute to a local pollution problem. This will have health benefits as exposure to harmful levels of pollution will be reduced.

We envisage that National Highways will be the first designated Relevant Public Authority. Further bodies are likely to be consulted on in future.

## Assessment of Impacts

As the designation establishes a duty to act on National Highways which is a public authority, we do not anticipate there to be any direct identifiable business impacts from this designation.

Moreover, the designation does not specify what measures could be implemented by National Highways as part of the LAQM framework. These will be dependent on the local situation and the outcome of potential assessments/feasibility studies to be carried out by National Highways. Discussions with National Highways have confirmed that the costs of feasible and proportionate measures can also be highly variable depending on local circumstances. The costs of assessments and any resulting implementation costs of a decided measure will fall on National Highways, or will otherwise be funded by Government (e.g., potentially through the Air Quality Grant).



There may be some immediate costs of engagement on National Highways in terms of familiarisation of the LAQM framework, local processes, and relevant documentation.

The most appropriate measures available to National Highways include speed limits and traffic management measures. These can help deliver air quality benefits by reducing congestion and improving traffic flow. This can also have impacts in terms of reduced risk of accidents, lower noise levels, improved amenity of nearby areas and potential journey time increases.

## Criteria for designation

A relevant public authority will:

- carry out duties of a public nature
- have a relevant source of pollution to air within its area of responsibility
- be able to take certain actions to reduce, or to cause to be reduced, local concentrations of pollution

# Questions

## Section 1 – Introduction: about you

**Q1. Your name?**

**Q2. Your email address?**

This is optional, but if you enter your email address you will be able to return to edit your consultation response in Citizen Space at any time until you submit it. You will also receive an acknowledgement email when you submit a completed response.

**Q3. Which best describes you?**

Please select the category which best describes you / the organisation you are representing in your response.

- Individual
- Health Body
- Academic or research institution
- Local Government
- Business
- Community Group
- Non-Governmental Organisation
- Charity or Social Enterprise
- Consultancy
- Other
- If you answered 'Other', please provide details

### **Confidentiality and data protection information**

A summary of responses to this consultation will be published on the Government website at: [www.gov.uk/defra](http://www.gov.uk/defra). An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details. Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (e.g. home address, email address, etc).

If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with the access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance

these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This is for the purposes of consultation response analysis and provision of a report of the summary of responses only. This consultation is being conducted in line with the Cabinet Office "Consultation Principles" and be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

Please find our latest privacy notice uploaded as a related document alongside our consultation document.

If you have any comments or complaints about the consultation process, please address them to:

- Consultation on the review of the Local Air Quality Management Policy Guidance
- Consultation Coordinator, Defra
- 2nd Floor, Foss House, Kings Pool,
- 1-2 Peasholme Green, York, YO1 7PX
- Or email: [consultation.coordinator@defra.gov.uk](mailto:consultation.coordinator@defra.gov.uk)

#### **Q4. Would you like your response to be confidential?**

- Yes / No If you answered 'Yes', please provide your reason.

## **Section 2 – Consultation questions**

### **Q5. Do you agree or disagree with the proposal to designate National Highways as a "Relevant Public Authority"? Do you:**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree

- Strongly disagree
- Don't know

**Please set out any evidence you wish to provide in support of your answer to question 1). (optional)**

**Q6. Would you agree or disagree that designating National Highways as a “Relevant Air Public Authority” would increase the effectiveness of local air quality management?**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Don't know

**Q7. What do you think of the draft statutory guidance “working with National Highways” (please see Annex A)? Please set out any comments or suggested improvements you think we should consider.**

**Q8. Do you agree or disagree with our assessment of impacts set out in the Regulatory Triage Assessment document (please see Annex B)? Please set out your reasons for agreement/disagreement.**

**Q9. Do you have any further comments or views on the designation of National Highways as a Relevant Public Authority?**

## Responding to this consultation

Please respond to this consultation in one of the following ways:

Online using the **Citizen Space** consultation hub at Defra <https://consult.defra.gov.uk/>

For ease of analysis, responses via the **Citizen Space** platform would be preferred, if at all possible, but alternative options are provided below if required:

By email to: [AQconsultations@defra.gov.uk](mailto:AQconsultations@defra.gov.uk)

By post:

Local Air Quality Team  
Department for Environment, Food and Rural Affairs  
Ground Floor  
SEACOLE BLOCK  
2 MARSHAM STREET  
LONDON  
SW1 4DF

Please note, any responses sent by post must arrive at the above address by the closing date of the consultation [Date]. Unfortunately, any responses received after this date will not be analysed.

## Duration

This consultation opens for ten weeks and will close on 6 June 2022.

## After the consultation

A summary of the responses to this consultation and the Government response will be published and placed on Government websites at [www.gov.uk/defra](http://www.gov.uk/defra).

The summary will include a list of respondents and organisations that responded but not personal names, addresses or other contact details. However, information provided in response to this consultation document, including personal information, will be shared with the Devolved Administrations and may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes e.g., Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018.

If you want information, including personal data that you provide to be treated as confidential, please say so clearly in writing when you submit your response to the consultation and explain why you need these details to be kept confidential.

Defra is the data controller in respect of any personal data that you provide, and Defra's Personal Information Charter, which gives details of your rights in respect of the handling of your personal data, can be found at:

<https://www.gov.uk/government/organisations/department-for-environment-foodrural-affairs/about/personal-information-charter>