

## **Report to OVERVIEW AND SCRUTINY BOARD**

### **Greater Manchester's Clean Air Plan – Tackling Nitrogen Dioxide Exceedances at the Roadside – Update**

**Date: 3 March 2020**

**Portfolio holder: Cllr A Ur-Rehman, Cabinet Member for Neighbourhood Services**

**Officer Contact:** Carol Brown, Director of Environmental Services

**Report author:** Carol Brown

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#### **Summary of the issue**

To set out the progress that has been made following the Government's response to Greater Manchester's Outline Business Case to tackle Nitrogen Dioxide Exceedances at the Roadside (OBC), and the implications for the 10 Greater Manchester (GM) local authorities in relation to the schedule of work and statutory consultation on the Clean Air Plan

In March 2018 the Secretary of State issued a Direction under the Environment Act 1995 requiring Oldham Council to produce a feasibility study to identify the option which will deliver compliance with the requirement to meet legal limits for nitrogen dioxide in the shortest possible time. The Council complied with this Direction by the production of a feasibility study submitted to the government's Joint Air Quality Unit (JAQU) in July 2018. The Council is also required to address the exceedances that have been identified within its boundary during the Target Determination exercise and the Council confirmed in its supplemental plan that the exceedance identified in Oldham was being addressed as part of the Greater Manchester plan. This has been acknowledged by government.

Oldham Council has therefore been developing the study collectively with the other 9 Greater Manchester local authorities and the GMCA, coordinated by TfGM in line with Government direction and guidance and an Outline Business Case (OBC) was duly submitted in April 2019.

The key features of Greater Manchester's feasibility study and its Outline Business Case (OBC) to reduce nitrogen dioxide exceedances in Oldham and across Greater Manchester in the shortest possible time were approved on 25 March 2019 at the Council's Cabinet meeting for submission to the government's Joint Air Quality Unit (JAQU).

#### **Recommendations**

- a) note progress made to date;



- b) note the ministerial direction under the Environment Act 1995 (Greater Manchester) Air Quality Direction 2019 which requires all ten of the Greater Manchester local authorities to implement a charging Clean Air Zone Class C across the region;
- c) note that the Cabinet Member for Neighbourhood Services has been requested to co-sign a letter from the GM Authorities to the Transport Secretary asking them to bring forward the launch of a statutory consultation to strengthen rules on vehicle idling.



## **1.0 Background**

- 1.1 To set out the progress that has been made following the Government's response to Greater Manchester's Outline Business Case to tackle Nitrogen Dioxide Exceedances at the Roadside (OBC), and the implications for the 10 Greater Manchester (GM) local authorities in relation to the schedule of work and statutory consultation on the Clean Air Plan.
- 1.2 In March 2018 the Secretary of State issued a Direction under the Environment Act 1995 requiring Oldham Council to produce a feasibility study to identify the option which will deliver compliance with the requirement to meet legal limits for nitrogen dioxide in the shortest possible time. Oldham Council complied with this Direction by the production of a feasibility study submitted to the government's Joint Air Quality Unit (JAQU) in July 2018. Oldham Council is also required to address the exceedances that have been identified within its boundary during the Target Determination exercise. Oldham Council confirmed in its supplemental plan that the exceedance identified in Oldham was being addressed as part of the Greater Manchester plan. This has been acknowledged by government.
- 1.3 Oldham Council has therefore been developing the study collectively with the other 9 Greater Manchester local authorities and the GMCA, and coordinated by TfGM in line with Government direction and guidance and an Outline Business Case (OBC) was duly submitted in April 2019.
- 1.4 The key features of Greater Manchester's feasibility study and its Outline Business Case (OBC) to reduce nitrogen dioxide exceedances in Oldham and across Greater Manchester in the shortest possible time were approved on 25 March 2019 at the Council's Cabinet meeting for submission to the government's Joint Air Quality Unit (JAQU).

## **2.0 Introduction**

- 2.1 Government has instructed many local authorities across the UK to take quick action to reduce harmful Nitrogen Dioxide (NO<sub>2</sub>) levels following the Secretary of State issuing a direction under the Environment Act 1995 to undertake feasibility studies to identify measures for reducing NO<sub>2</sub> concentrations to within legal limit values in the "shortest possible time". In Greater Manchester, the 10 local authorities, the Greater Manchester Combined Authority (GMCA) and Transport for Greater Manchester (TfGM), hereinafter collectively referred to as "Greater Manchester" or "GM", are working together to develop a Clean Air Plan to tackle NO<sub>2</sub> Exceedances at the Roadside, hereinafter referred to as GM CAP.
- 2.1 In its Outline Business Case (OBC) Greater Manchester proposed the following package of measures that delivers compliance in the shortest possible time, at the lowest cost, least risk and with the least negative impacts. They are:
  - A charging Clean Air Zone (CAZ) which will target the most polluting commercial vehicles including older heavy goods vehicles, buses, coaches, taxis and private hire vehicles from the summer of 2021, and older polluting light goods vehicles from 2023 (i.e. a CAZ C with a van exemption until 2023). It has been assumed at OBC stage that the Clean Air Zone Charge would be £7.50 per day for taxis, private hire vehicles and light goods vehicles and £100 per day for heavy goods vehicles, buses and coaches.



- A Clean Freight Fund of c.£59m to provide financial support for the upgrade of light and heavy goods vehicles, minibuses and coaches, which will be targeted to support small local businesses, sole traders and the voluntary sector, registered in Greater Manchester.
  - A Clean Taxi Fund of c.£28m, to support the upgrade of non-compliant Greater Manchester Licensed taxi and private hire vehicles.
  - A Clean Bus Fund of c.£30m to provide, where possible, the retrofit of older engine standards to the less polluting Euro VI standard for those buses registered to run services across Greater Manchester.
  - A package of supporting measures including a proposed Loan Finance scheme, sustainable journeys projects, additional EV charging infrastructure.
- 2.2 The OBC made clear the expectation that the UK Government would support the plans through:
- Clear arrangements and funding to develop workable, local vehicle scrappage / upgrade measures;
  - Short term effective interventions in vehicle and technology manufacturing and distribution, led by national Government with local authorities;
  - Replacement of non-compliant buses; and
  - A clear instruction to Highways England with regard to air pollution from the Strategic Road Network (SRN) in Greater Manchester.
- 2.3 The OBC outlining these proposals and the supporting evidence was submitted to Government at the end of March 2019. Ministerial feedback was received in July 2019 along with a further direction under the Environment Act 1995 which requires all ten of the Greater Manchester local authorities to take steps to implement a plan to deliver compliance with the requirement to meet legal limits for nitrogen dioxide in the shortest possible time.
- 2.4 The 2019 Ministerial Direction and accompanying letter proposed some key amendments to GM's OBC proposals, including the implementation of a charging Clean Air Zone Class C *without* a van exemption until 2023, with additional measures; and for local authorities to jointly submit to JAQU revised evidence by 2 August and a Full Business Case (FBC) by 31 December 2019 at the latest.
- 2.5 The Ministerial letter set out that the GM plan looks to be on track to deliver compliance in the shortest possible time and that on the evidence provided to date Greater Manchester authorities should continue to proceed towards developing the implementation and contract arrangements of a charging Clean Air Zone in Greater Manchester and that the Government would provide an initial tranche of £36m of funding to take this forward.
- 2.6 Full detail of the government's response was set out in the GMCA – Clean Air Update report on 26 July 2019.



### **3 Progress Since Last Update**

- 3.1 Following the ministerial feedback and 2019 Ministerial Direction, the GM Authorities sought clarification on the 2019 Ministerial Direction and the accompanying ministerial letter, questioned the government's lack of assurances around financial support for the broader GM CAP, outlined GM's approach to the requests for further options analysis, and detailed the issues GM faces in preparing to implement the scheme in terms of the timetable for FBC and statutory consultation.
- 3.2 The ministerial letter requested from GM further options appraisal information (including transport and air quality modelling as well as due regard to economic, financial and deliverability considerations) to be submitted prior to public consultation, and by 2nd August 2019.
- 3.3 In the interests of the ongoing working relationship between the 10 GM Authorities and the government's Joint Air Quality Unit (JAQU) in developing the GM CAP, a total of 29 draft technical reports and notes have been issued to JAQU. These provide the specific information JAQU has requested about behavioural assumptions and sensitivity testing.
- 3.4 GM has also requested clarification of the 2019 direction, JAQU guidance and GM's legal obligations relating to the options appraisal process, and whether this impacts on the GM authorities' options appraisal work to date or the additional work required by the letter accompanying the 2019 Ministerial Direction.
- 3.5 In addition, GM set out that the delay of over two months in receiving Ministerial feedback on the OBC, compounded by the request for GM to submit further options appraisal information, has had a material impact on the timetable for the GM CAP.
- 3.6 The delay arising from the ministerial feedback and lack of clarity on the direction, JAQU guidance and GM's legal obligations relating to the options appraisal process means that consultation will now need to take place later than originally planned. Consultation must comply with the relevant public law principles which may be summarised as:
- consulting at a time when proposals are still formative;
  - giving sufficient reasons for the proposals to allow intelligent consideration and response by consultees;
  - giving adequate for consultees to respond; and
  - ensuring that the responses to the consultation are conscientiously taken into consideration in finalising proposals.
- 3.7 In planning for a Statutory Consultation Officers have had to have regard to these principles. Given the continuing dialogue with Ministers to secure a clear response from government on our clean vehicles funding asks and lack of clarity on the 2019 Ministerial Direction, JAQU guidance and GM's legal obligations relating to the options appraisal process, Officers cannot at this time advise the GM Authorities to commence the Statutory Consultation.
- 3.8 In the absence of a Statutory Consultation GM Authorities were not able to submit a FBC by the end of 2019. Officers remain in dialogue with JAQU and have written to clarify GM's position in relation to our schedule of work. GM has been clear that improving air quality is a priority and to that aim we have set out how we have been progressing this work.



- 3.9 Despite this delay to undertaking a Statutory Consultation, in view of the 2019 Ministerial Direction GM must continue to proceed towards developing the implementation and contract arrangements of a charging Clean Air Zone in Greater Manchester utilising the initial tranche of £36m of funding.
- 3.10 GM Authority decision makers will receive a report in the Spring to determine the timings for commencement of the consultation. The report will:
- Detail the outputs from the Public Conversation and deliberative research;
  - Set out the outline of the proposals and what they mean for GM, including:
    - the basic key elements of the Clean Air Zone including the intended boundary and times of operation, proposed discounts/exemptions, vehicles affected and daily charges]
    - the supporting measures [the detail of proposals of the funds and vehicle finance scheme, sustainable journeys]
    - An Equalities Impact Assessment that considers the draft proposals at a GM level.
- 3.11 In the interim, given the scale and challenging timeline to deliver a charging Clean Air Zone as required by the 2019 Ministerial Direction, there is preparatory work that needs to be undertaken. This is in order to maintain delivery momentum in line with the funding arrangements agreed with JAQU, for example in relation to automatic number plate recognition (ANPR) cameras, back office systems and service providers. Therefore, a delegation has been given to the Deputy Chief Executive, Helen Lockwood in consultation with the Portfolio Holder for the necessary authority to determine the preparatory implementation and contract arrangements, utilising the initial tranche of £36m of funding that may need to be undertaken to deliver a Clean Air Zone and other GM CAP measures.
- 3.12 The commencement of a charging Clean Air Zone scheme and the other measures are subject to both consultation as set out at 4.10 and to the GM authorities receiving the required government funding to enable them to meet the legal limits for nitrogen dioxide concentrations.

#### 4.0 **Government Asks**

- 4.1 In addition to the response on the specific clean air proposals, additional asks were made of Government, as set out at 3.3
- 4.2 These include an ask for Government to direct Highways England to tackle NO<sub>2</sub> exceedances on the Strategic Road Network (SRN) in the same way that local authorities that have been directed to undertake a feasibility study are having to take action on the local road network. The ministerial feedback outlined that Highways England are working up plans for exceedances identified by national modelling on their network, and that this is not expected to include charging on the SRN but will instead focus on a range of measures such as traffic management, speed limits and barriers.
- 4.3 Officers have been advised that the measures proposed by Highways England in Greater Manchester focus on introducing 60mph speed limits on parts of the SRN. It highlights the concern that Highways England have not been directed to act in relation to tackling NO<sub>2</sub> exceedances in the same way as local authorities, and that this will leave some publicly accessible areas of GM adjacent to trunk roads



managed by Highways England, with NO<sub>2</sub> exceedances that are not being addressed by the Highways England plan.

## **5 Next Steps**

### 6.1 Officers will:

- Continue to work with JAQU to clarify the 2019 Ministerial Direction, JAQU guidance and GM's legal obligations relating to the options appraisal process, and the implications of that to our schedule of work and the timings for consultation on the Plan;
- Continue dialogue with JAQU to secure a clear response from government on our clean vehicles funding asks; and
- Continue stakeholder engagement and awareness raising with both groups in scope of the Clean Air Zone and the general public.