



Law Society
of Scotland

Consultation response

Cleaner Air for Scotland 2 - a consultation on a draft
new air quality strategy for Scotland

January 2021



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Environmental Law Sub-committee welcomes the opportunity to respond to the Scottish Government's consultation on *Cleaner Air for Scotland 2 - a consultation on a draft new air quality strategy for Scotland*¹. We have the following comments to put forward for consideration.

General comments

The draft strategy deals with matters at a fairly high level and we expect that the success of the strategy will depend on the detail of the particular actions to be undertaken.

Consultation questions

1. Do you agree with the package of actions put forward in the health chapter?

We have no comment.

2. Do you agree with the package of actions put forward in the integrated policy chapter?

Yes. We consider that integration is both essential and welcome.

¹ <https://consult.gov.scot/environmental-quality/cleaner-air-for-scotland-2/>

3. What in your opinion and/or experience are the barriers to cross departmental working within local authorities or other organisations on air quality and how can these barriers be overcome?

We note that the solutions to air quality and noise pollution are often closely aligned, although this is not always the case. Where they are not aligned, it is important that solutions to one issue are not prioritised over the other. Noise pollution is potentially at risk of being given limited priority where there are competing solutions as noise targets are not in place.

4. Do you agree with the package of actions put forward in the placemaking chapter?

Yes.

5. Do you have any suggestions on the role of place-based approaches in delivering targeted air quality improvements?

We consider there are greater opportunities for promotion of urban trees for their benefits in air quality, noise and climate change (both carbon use and through providing shade and cooling).

6. Do you agree with the package of actions put forward in the data chapter?

Yes.

7. Do you have any suggestions on the approach for annual collection of traffic data for air quality management purposes?

No.

8. Do you agree with the package of measures put forward in the public engagement and behaviour change chapter?

We have no comment.

9. Do you agree with the package of actions put forward in the Emissions Regulation chapter?

We have no comment.

10. Should currently unregulated sectors such as non-waste anaerobic digestion and non-road mobile machinery be brought into existing legal frameworks?

We have no comment.

11. Do you agree with the package of actions put forward to reduce the impact of domestic (household) combustion?

We do not consider that the consultation is entirely clear in relation to heat pumps. Careful consideration is required due to the potential for unintended consequences, for example, potential noise impacts, as well as the need to build demand among consumers.

12. What potential impacts might the package of actions put forward have on households and businesses?

We have no comment.

13. Do you agree with the package of actions put forward in the agricultural section?

In relation to agricultural emissions, we note the need and opportunity for integration between the package of actions proposed and rural support, particularly in light of the anticipated changes following the UK's withdrawal from the EU.

14. We will work together with SEPA and the agricultural industry to develop a voluntary code of good agricultural practice for improving air quality in Scotland. Do you agree with this approach to tackling ammonia emissions from farming?

We support use of a voluntary code.

15. Any voluntary code of good agricultural practice could be subject to an early review process to assess its effectiveness and compliance. If the review indicates that insufficient progress is being made, the need for direct regulatory intervention will be considered. Do you agree with this approach?

We agree with this approach but note that should direct regulatory intervention become necessary, this should take account of the impacts of this on those operating in the industry.

16. Do you agree with the package of actions put forward in the nitrogen deposition and environmental impacts section?

We have no comments.

17. Do you agree with the actions put forward in the transport chapter?

We largely agree with the suggested actions.

We welcome the strong focus on modal shift. We suggest that modal shift may be easier to achieve if the transport services were subject to great regulation and integration. We suggest that there are opportunities for a holistic approach to be taken in transport to air quality and noise pollution.

We suggest that there would be merit in greater emphasis on examining the need for travel and the effects of COVID-19. For example, how will reduced levels of public transport use affect the development of the public transport sector, particularly if there remain high levels of employees working from home in the longer term which may diminish demand?

The transport section does not address shipping, despite the impacts in port area and the more general connection to climate issues.

We note that there is potential disassociation between what is proposed in the strategy and what is happening in practice – for example, the plan refers to expansion of the trunk road network being de-prioritised, yet there are major trunk road projects currently ongoing.

The strategy refers to electrification of the rail network and we highlight the importance of the link between air quality and achieving decarbonisation of the rail network across Scotland.

18. Do you agree with the package of actions put forward in the Local Air Quality Management chapter?

Yes.

19. Do you agree with the proposed Governance of CAFS 2?

We welcome the proposals for an air quality Ministerial Group including Ministers from portfolios for consideration of specific issues as well as senior central and local government representatives. We note, however, the importance of air quality as a cross-cutting issue and consider that all sectors of government activity are affected. The impacts for air quality should therefore be considered in all activities.

20. Do you agree with the proposed review timeframe?

Yes.

21. Are you aware of any additional equalities impacts of the proposals in this strategy?

We have no comment.

22. Do you think introducing legislation to control the supply of the most polluting domestic fuels, as described in chapter 7 of this consultation, will have disproportionate impacts on remote/rural or island communities? Please provide evidence where possible in support of your answer.

We have no comment.

23. Do you think this strategy will disproportionately impact low income households? Please provide evidence where possible in support of your answer.

We have no comment.

24. Are you aware of any additional business or regulatory impacts of the proposals in this strategy? Please provide any supporting evidence that you are aware of.

We have no comment.

25. Do you anticipate that the proposals in this strategy will have differing impacts for large/small scale businesses? Please provide any supporting evidence that you are aware of.

We have no comment.

26. Would there be different impacts for those that operate in Scotland only and those that operate across different parts of the UK? Please provide any supporting evidence that you are aware of.

We have no comment.

27. Would there be different impacts for those that operate in remote/rural or island communities? Please provide any supporting evidence that you are aware of.

We have no comment.

28. What are your views on the accuracy and scope of information used to describe the environmental baseline set out in the Environmental Report?

We have no comment.

29. What are your views on the predicted environmental effects as set out in the Environmental Report?

We have no comment.

30. What are your views on the findings of the SEA and the proposals for mitigation and monitoring the environmental effects set out in the Environmental Report?

We have no comment.



For further information, please contact:

Alison McNab

Policy Team

Law Society of Scotland

DD: 0131 476 8109

alisonmcnab@lawscot.org.uk