

The Joinery,
34 Drayton Park,
London N5 1PB,
United Kingdom

To: [REDACTED], Solicitor and Monitoring Officer
Greater Manchester Combined Authority

By email only: [REDACTED]

Dear [REDACTED]

Greater Manchester Clean Air Zone plans: concerns relating to up-coming review

On 6 January 2022, the Mayor of Greater Manchester announced that local leaders are due to review their plans for a Clean Air Zone (“**CAZ**”) in the region in the coming week.

ClientEarth is writing to you as the solicitor representing the Mayor, the Greater Manchester Combined Authority and the ten Greater Manchester local authorities (the “**Councils**”) in this matter, in order to urge your clients not to further weaken or delay their existing CAZ proposals as part of any such review. The CAZ is an essential step towards protecting the health of people who live, work and study in the region from the devastating impacts of air pollution. Any further dilution or postponement of the Councils’ existing proposals will risk those plans falling short of strict legal requirements and being vulnerable to challenge by judicial review.

Illegal and harmful levels of air pollution persist in Greater Manchester

The Greater Manchester region has a persistent and widespread air pollution problem, with some of the worst air quality in the UK. By the city region’s own calculations, breathing dirty air is estimated to cause 1,200 premature deaths in the region every year, and affects the lives of many more. It can cause asthma attacks, heart attacks and strokes, and has been linked to low birth weights and stunted lung growth in children, as well as host of other diseases. Initial studies are also suggesting that air pollution could increase vulnerability to the most severe impacts of Covid-19.

The Air Quality Standards Regulations 2010 (the “**2010 Regulations**”) impose legal limits on the concentration of harmful pollutants in ambient air across England and Wales, with the aim of protecting human health (Reg. 17). Greater Manchester has reported levels of toxic nitrogen dioxide (“**NO₂**”) pollution in excess of those legal limits ever since the deadline for compliance in 2010.

The latest formal compliance statistics published by central government show that in 2020 Greater Manchester still reported illegal concentrations of NO₂ pollution, despite reduced traffic activity caused by Covid-19 restrictions.¹ Out of 43 reporting zones across the UK, Greater Manchester was one of only five zones that reported illegal levels of this harmful pollutant in 2020. With traffic levels returning to pre-pandemic levels, it is clear that action remains necessary to tackle illegal air pollution and protect people’s health across Greater Manchester.

¹ Department for Environment Food and Rural Affairs (2021) ‘Air Pollution in the UK 2020’. Available here: https://uk-air.defra.gov.uk/library/annualreport/viewonline?year=2020_issue_1&jump=4-2#report_pdf

Continuing legal obligations to tackle illegal pollution

Where legal limits for NO₂ pollution are exceeded, the 2010 Regulations require air quality plans to be prepared and implemented to ensure compliance within the “shortest possible time” (Reg. 26). In July 2017, the Secretary of State directed the Councils to draw up their own plans to tackle the region’s illegal levels of NO₂.

ClientEarth wrote to the Councils in March 2018, March, June and August 2019 and January, May and August 2020 to highlight the strict legal tests that their plans must satisfy in this context. Those legal requirements still stand, and ClientEarth’s position remains unchanged. As a matter of law, the Councils’ air quality plan must set out measures that ensure pollution levels across Greater Manchester will be reduced to within legal limits in the shortest possible time, whilst reducing human exposure as quickly as possible.²

The Councils have identified a Clean Air Zone as the most effective solution

After detailed analysis of a number of possible alternative measures, the Councils themselves have identified a CAZ as being necessary in order to secure compliance with legal limits. They identified a class C CAZ as their preferred option in 2019 and carried out public consultations on the details of the proposed scheme in autumn 2019, winter 2020, and autumn 2021, before committing to introducing the CAZ by May 2022.

ClientEarth wrote to the Councils on 18 August 2020 to highlight that their class C CAZ plan already risks falling short of legal requirements – as the scheme is not scheduled to come into full force until 2023 and excludes private cars despite being the largest source of illegal pollution. We are therefore extremely concerned by the imminent review of these plans, which carries an inherent risk that they might be further diluted or delayed.

The courts have made it clear that when selecting measures to tackle illegal air pollution authorities *must* commit to those interventions that are assessed as the most effective at reducing pollution to within legal limits in the shortest possible time, via a route that reduces human exposure as quickly as possible, irrespective of cost.³ The Councils have already put a huge weight of technical effort behind considering alternatives to a CAZ over the past five years, concluding that a CAZ is the single most effective way to quickly deliver compliance across Greater Manchester. No alternatives have been identified that are at least as effective. Issues of cost or political popularity are not lawful reasons for the Councils to now scrap, weaken or delay the CAZ and any such changes to their plans risk being vulnerable to legal challenge by judicial review.

A focus on help and support for people and businesses

In a public statement released on 6 January 2022, the Mayor has cited the impact of the pandemic, increases in the cost of living and the availability of vehicle upgrades as reasons behind the Councils’ upcoming review of the CAZ plan.

² Further detail on the nature of those legal requirements is set out in the briefing ClientEarth circulated to the Councils in March 2019, which is available here: <https://www.clientearth.org/media/m1borg0p/what-do-clientearths-legal-cases-mean-for-local-authority-plans-to-deliver-nitrogen-dioxide-compliance-in-england-and-wales-ce-en.pdf>

³ *R (oao ClientEarth (No.2)) v Secretary of State for the Environment, Food and Rural Affairs and others* [2016] EHC 2740 (Admin), para. 50

These concerns are important and ClientEarth has consistently criticised central government for failing to adequately support local governments in implementing CAZs as well as failing to provide help and support for people and businesses to move on to cleaner forms of transport.

Accordingly, ClientEarth would fully support the Councils seeking additional funding for support packages, provided this results in no delay to the CAZ's implementation. Furthermore, we believe that in many important respects the CAZ (if well-designed) would operate to alleviate rather than add to the burdens felt by people, the local economy and the NHS across Greater Manchester.

The Councils' own analysis as part of the Outline Business Case estimated that the proposed CAZ would deliver over £105 million in benefits to human health and the environment – in terms of preventing early deaths, hospital admissions and productivity losses.⁴ Analysis by CBI Economics has since estimated that the CAZ could prevent almost 160 deaths in the region, save more than 350 days spent in Greater Manchester's hospitals due to respiratory conditions and add over 598,000 working hours in productivity each year.⁵ The pandemic should serve as further reason to accelerate action to clean up the air in order to alleviate the continued strain on businesses and the NHS.

People on low incomes are disproportionately impacted by the effects of air pollution and have the most to gain from action to clean up the air – being most likely to live in highly polluted areas, whilst being least likely to contribute to the problem.⁶ Similarly, the impacts from air pollution are disproportionately suffered by people from ethnic minorities⁷ and outdoor⁸ and transport workers.⁹ The health burden of further delays to or weakening of the CAZ scheme would therefore fall disproportionately on the poorest households; something that the Mayor has failed to acknowledge in his recent statement.

Rather than pausing or weakening action to protect people's health, the focus should instead be on providing help to people and businesses (particularly those on lower incomes and small businesses) to ensure they have the opportunity and resources to move to cleaner forms of transport. We note that other local authorities that have taken a more proactive and positive approach to developing and implementing their mandated air quality plans have been able to make funding from the government's Clean Air Fund available to their residents and businesses much sooner. This has not only helped to provide support to individuals and local businesses but also encouraged clean growth.

⁴ see table 2-3 of the "Economic Case" published in 2019. Available at: https://assets.ctfassets.net/1tpgbvy1k6h2/bnYHQ5ChHx658pw6sQSG9/45f8832b6dbc97e8032d00e61ac3fd1a/Economic_Case.pdf

⁵ CBI Economics (2021) 'Breathing Life into Great Manchester'. Available at: https://www.cleanairfund.org/wp-content/uploads/2021/04/12651_CA_Z_Clean-Air-Fund_Manchester.pdf

⁶ Barnes, J. (2019) 'Emissions vs exposure: Increasing injustice from road traffic-related air pollution in the United Kingdom'. *Transportation Research Part D: Transport and Environment*. Available at: <https://www.sciencedirect.com/science/article/pii/S1361920919300392>

⁷ Fecht, D. et al. (2014) 'Associations between air pollution and socioeconomic characteristics, ethnicity and age profile of neighbourhoods in England and the Netherlands', *Environmental Pollution*, Available at: <https://www.imperial.ac.uk/news/163408/ethnic-minorities-deprived-communities-hardest-pollution/>

⁸ See <https://www.britsafe.org/about-us/press-releases/2020/new-research-shows-outdoor-workers-are-exposed-to-15-more-pollution-than-the-average-londoner/>

⁹ World Health Organization. See "Effects on health of transport-related air pollutants" available at <https://www.euro.who.int/en/data-and-evidence/evidence-informed-policy-making/publications/hen-summaries-of-network-members-reports/what-are-the-effects-on-health-of-transport-related-air-pollution>

Instead of delaying the CAZ, we urge the Councils to push ahead with making available the £120 million they have already secured for such schemes, whilst working with central government to obtain additional support.

CAZs are already up and running in Bath, Birmingham, Portsmouth and London. Analysis by the Mayor of London has shown the rapid reductions in harmful pollution that can result from these schemes – with a 37% reduction in NO₂ concentrations attributed to the Ultra-Low Emission Zone in its first 10 months of operation.¹⁰ If Greater Manchester does not follow suit, the health of the people living in this region risks being further left behind.

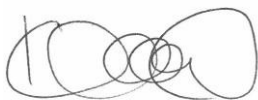
Finally, you will be aware of the 2020 inquest into the death of Ella Adoo-Kissi-Debrah, which concluded that exposure to pollution levels above legal limits and World Health Organization guidelines materially contributed to the 9-year-old girl's death. The inquest heard how phase three of the London Low Emission Zone was pushed back from 2010 to 2012 – a year before Ella died – and that this would have had a bigger impact on people with respiratory problems in deprived areas. The Coroner noted that the then Mayor's 2010 report on deferring the project was 'lacking' and seemed to prioritise economic benefits above health impacts. This further highlights the very real impact that delays to action to tackle illegal and harmful levels of air pollution can have on people's lives.

Next steps

ClientEarth will be closely following the results of the Councils' review of the CAZ proposals, and will not hesitate to consider further legal action if plans to achieve compliance with legal pollution limits in Greater Manchester are diluted, delayed or scrapped.

If you or your clients wish to discuss these issues with us directly, please do not hesitate to contact me via the email address below.

Yours sincerely,



Katie Nield

Lead lawyer, Clean air, UK and Western Europe

[Redacted contact information]

www.clientearth.org

¹⁰ Mayor of London (2020) 'Central London Ultra Low Emission Zone – Ten Month Report'. Available at: https://www.london.gov.uk/sites/default/files/ulez_ten_month_evaluation_report_23_april_2020.pdf

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