

Clean air strategy 2019—raising difficult expectations?

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Environment analysis: William Upton, barrister at 6 Pump Court, considers the key features and future impact of the government's clean air strategy 2019.

Original news

Government publishes strategy setting out targets for clean air, [LNB News 14/01/2019 79](#)

The UK government has set out its ambitious plan to tackle air pollution and its impact on public health in its [clean air strategy 2019](#). The strategy includes long-term targets to reduce exposure to particle matter (PM), end the sale of new diesel and petrol cars and vans from 2040, and regulate domestic fossil fuel stoves.

What is the background to the clean air strategy 2019?

The [Environment Act 1995](#) requires the UK government and the devolved administrations for Scotland and Wales to produce a strategy containing the standards, objectives and measures for improving air quality. The last significant strategy was the [National Air Quality Strategy 2007](#) and the Department for Environment, Food & Rural Affairs (DEFRA) has been under pressure to produce a revised national strategy. Some of that pressure was reduced when it produced a [strategy](#) to reduce roadside nitrogen dioxide emissions, but DEFRA has still needed to produce a national strategy to show how the UK would comply with all the EU and national standards. The pressure has come not only from the European Commission but also from the string of cases taken by ClientEarth. There have been 12 reported decisions on the matter, dating from 2011 onwards and ranging from the High Court through to the Supreme Court and the Court of Justice of the European Union. The last judgment in *R (on the application of ClientEarth) (No.3) v Secretary of State for the Environment, Food and Rural Affairs* [\[2018\] EWHC 315 \(Admin\)](#), [\[2018\] All ER \(D\) 131 \(Feb\)](#) saw the High Court not only declare parts of the government's 2017 version of the national air quality plan to be unlawful, but also granted ClientEarth a continuing liberty to apply.

How does it sit alongside other key strategies such as the clean growth strategy, industrial strategy and 25-year environment plan?

The government considers that this air quality strategy complements the [clean growth strategy](#) (October 2017) and the [industrial strategy](#) (November 2017) produced by the Department for Business, Energy & Industrial Strategy, as well as a key part of delivering DEFRA's own [25-year environment plan](#). While there is an obvious overlap between many of the issues, the air quality strategy concentrates on the impacts on human health. The clean growth strategy is the plan for continuing to decarbonise the UK economy through the 2020s and to reduce the emission of greenhouse gases. The 25-year environment plan sets out the long-term plan for nature's recovery and good health.

In terms of the wider political agenda, the government sees this as helping to deliver its pledge that we will be the first generation to leave the environment in a better state than we inherited.

What legal obligations (international, European or national) is the strategy aiming to address?

The UK has a number of legally-binding international targets to meet, which would reduce emissions of five of the most damaging air pollutants in stages, namely:

- fine particulate matter (PM_{2.5} and PM₁₀)
- ammonia (NH₃)

- nitrogen oxides (NO_x)
- sulphur dioxide (SO₂)
- non-methane volatile organic compounds (NMVOC)

These targets are set out in the EU Ambient Air Quality [Directive 2008/50/EC](#) and the National Air Quality Standards Regulations 2010, [SI 2010/1001](#). The deadlines to reduce levels have been set at 2010, 2020, and 2030. The strategy refers to these as ‘ambitious’ targets. The more stringent targets for 2020 and 2030 aim to cut the harm to human health by half.

The 2019 strategy now also proposes that there will be a new goal to cut public exposure to the finest of particulate pollution (known as PM_{2.5}) across the UK by 50% by 2025 in all areas where the level of pollution is above the World Health Organisation’s (WHO) annual mean guideline level (set at 10 micrograms per cubic metre). DEFRA will publish further evidence on how this might be done later this year.

What are the key features of the strategy?

DEFRA has produced a high-level strategy of some 109 pages, which sets out how the government aims to significantly reduce the emissions of the five air pollutants by 2020 and by 2030. The strategy summarises what measures have been taken to date and identifies a number of intended actions to come. It does not therefore repeat what has already been set out in the [Road to Zero strategy](#), which sets the plans to end the sale of new conventional petrol and diesel cars and vans by 2040, or the UK plan for tackling roadside nitrogen dioxide concentration. It also notes that the UK government will need to work in partnership with the governments of Scotland, Wales and Northern Ireland.

It is accepted that ‘the current legislative framework has not driven sufficient action at a local level’ and the strategy does state that the intention is to bring forward a new act on air quality in 2019. This may be tied into the development of the new environmental principles and governance framework outlined in the [draft Environment Bill](#), which was published in December 2018.

The strategy does range across all sectors of the economy. Industrial emission standards will continue to be tightened. In addition, the stated aim is that coal-fired power stations will be phased out, as will oil and coal heating. The government will also legislate to prohibit the sale of the most polluting fuels and proposes to promote the reduction of the use of non-methane volatile organic compounds in such household products as carpets, upholstery, paint, cleaning, fragrance and personal care products.

As for transport, further legislative controls are proposed concerning the use of emissions control systems, the use of mobile machinery, and to reduce impacts from the activities of railways, maritime transport and ports. In farming, the main focus is on reducing ammonia emissions, with new rules proposed on slurry use, spread and covered storage from 2025. The Environmental Permitting regime will be extended to cover the dairy and intensive beef sectors, and not just intensive pig and poultry farms.

There are likely to be new enforcement powers for local authorities. The new Environment Bill would make smoke control legislation easier to enforce. However, the strategy talks about ‘the options’ that are under consideration, and does not yet commit the government to any particular course of action—be it requiring local authorities to create an action plan to protect public health when there is an air pollution episode, creating a ‘lead authority’, imposing requirements on neighbouring local authorities and other public bodies to work collectively to tackle air pollution, or shifting the focus towards prevention rather than tackling air pollution only when limits are surpassed. The government has also said that it will explore giving powers to local authorities to go further in areas of high pollution, for example to increase the rate of upgrade of inefficient and polluting heating appliances, and to reduce the use of open fires and wood-burning stoves.

The shift of focus at the local authority level towards prevention could have major impacts on planning, and DEFRA want to work with the Ministry of Housing, Communities and Local Government (MHCLG) to strengthen the planning practice guidance on air quality to ensure planning decisions help to drive improvements in air quality. The [revised NPPF](#) (July 2018) does not elaborate extensively on how the local planning authorities should seek to meet these tougher requirements, even though its provisions on air quality are more detailed and strategic than those in the 2012 NPPF.

How has the strategy been received?

The magnitude of the problems with air quality have plainly driven and given a real sense of urgency to these wide-ranging proposals. The result should be a series of discrete and cumulative legislative improvements, each of which might in less pressing times have been regarded as individually not worth doing. The energy industry, through Energy UK, has emphasised the huge progress that has been made already by the energy sector, and has welcomed the launch of an 'ambitious' strategy as, for the first time, it encompasses all sectors of the economy. ClientEarth themselves have stated that the ambition of the strategy in some areas is 'laudable', although they are worried that the local authorities are being tasked with doing too much of the work on pollution from road transport and are already missing the deadlines set. There is certainly a need, as the British Heart Foundation noted, to accelerate the coordinated, bold and ambitious actions required to protect people's health wherever they live in the UK.

Interviewed by Varsha Patel.

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