

TITLE OF REPORT:	The Clean Air Zone for Newcastle and Gateshead – Delivery Plan
REPORT OF:	Sheena Ramsey Chief Executive; Peter Udall Strategic Director, Economy, Innovation and Growth

Purpose of the Report

1. Newcastle and Gateshead Councils are legally bound to adhere to a government legal direction to improve air quality in the shortest possible time. Following consultation in 2019, the councils have undertaken work to update the delivery strategy and in doing so review the measures needed to bring and maintain air quality within compliant levels. Following approval by Newcastle and Gateshead Councils in September 2021, a plan for a Clean Air Zone Class C (CAZ) and a bid for funding to support a package of mitigation and support measures was submitted to Government with a full business case. This report provides an update on the position with government and sets out recommended changes to the draft legal order and exemption policy.
2. Cabinet is asked to agree a change in delivery strategy through the proposed phased introduction of charges for different vehicle classes and the addition of a small number of commercial vehicles to be exempt from the charge; agree to that the draft order be changed to reflect the updated proposed delivery strategy and exemptions and to note that Newcastle City Council delegate to their Director of Place the authority to appoint a panel of financial providers to manage the administration and issue of support grants provided with funds awarded to Newcastle and Gateshead Councils of £18.2m to replace non-compliant vehicles. The panel will also be able to provide financial products to customers should they require them in the form of purchase hire agreements and other such financial products to maximise uptake of the scheme and assist vehicle owners in the area.

Background

3. Previous reports to Cabinet and Full Council have set out the progress to develop a Clean Air Zone for Gateshead and Newcastle. This report indicates a proposed revised implementation strategy that takes into account feedback from the consultation, concerns regarding impacts on business (particularly bearing in mind the availability of appropriate replacement vehicles), and the year of compliance with defined legal limits.
4. The reports submitted to Cabinet in July 2021 and September 2021 (and Full Council in September 2021) set out the rationale for delivery and the procedural background, including the decisions made in 2019/2020. The July 2021 and February 2022 cabinet reports indicated that a Clean Air Zone Class C, without further traffic restrictions, was likely to achieve compliance in 2022, if implemented in July 2022.
5. The Cabinet and Full Council reports (July '21 and September '21) identified the

proposed launch date of the CAZ as July 2022, ensuring compliance that year. At that time, it was envisaged that following lengthy engagement on the business case and associated rationale with government, that the business case would be submitted and approved in time to ensure all necessary workstreams (including legal, procurement, information communications technology, finance, and infrastructure) to be completed in time to enable that start date. Unfortunately, the Business Case was not approved by Government until March 2022 which meant that a new start date would be required given July was no longer achievable.

6.

Proposal

7. This report sets out a new timetable for implementation that is not only based on the technical aspects of the business case and deliverability of the project, but also reflects engagement with government and the business sectors impacted by the CAZ. Given compliance can no longer be achieved in 2022, but would be in 2023, a phased approach to implementation of charging is proposed. The report sets out the rationale for this approach.

Recommendations

8. It is recommended that Cabinet:

- (i) Agrees a revised timetable for scheme implementation as set out in this report given the delay in approval of the Full Business Case;
- (ii) Agrees a phased approach to the implementation of the Clean Air Zone, deferring introduction of daily charges for light goods vehicles until July 2023, noting that this approach is not yet formally agreed by government;
- (iii) Agrees the following local exemptions not previously approved: light goods vehicles (until July 2023); rail replacement buses and coaches; bus and HGV driver training vehicles; hackney carriage, private hire vehicles and LGVs belonging to residents residing within the Clean Air Zone; and hybrid vehicles and delegate authority to the Joint Committee overseeing the Clean Air Zone to make further exemptions as considered appropriate;
- (iv) Agree that the form of the draft Charging Order previously approved by Cabinet be updated to incorporate the changes to the approach and exemptions set out in a-c above and accordingly to:
 - a. Agree, jointly with the Newcastle City Council, to make the Charging Order incorporating such amendments identified above (and also incorporating any further amendments referred to in (b) below);
 - b. Delegate authority to the Strategic Director, Economy, Innovation and Growth, in consultation with the Leader of the Council and Cabinet member for Environment and Transport, to make any non-material changes to the Charging Order on behalf of Gateshead Council (and to note that such changes would also be needed to be agreed by Newcastle City Council) before it is made; and
 - c. Authorise, in accordance with the Council's constitution, the sealing and dating of the Charging Order incorporating any changes which are made as in accordance with (ii) and (iii) above.
- (v) Note that Newcastle City Council will delegate authority to their Director of Place to enter into a decision, following a full procurement exercise, to award a contract to a panel of finance providers who will assist in the administration and issue of support grants provided to Gateshead Council and Newcastle City Council by Government.

For the following reason:

To enable the delivery of a Clean Air Zone in order to bring NO₂ air pollution within Gateshead and Newcastle within legal limits.

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Policy Context

1. The proposals in this report are consistent with the Council priorities and the overall strategic approach for Gateshead as set out in “Making Gateshead a Place Where Everyone Thrives” and its policy objectives. In particular, “Put people and families at the heart of everything we do” and “Work together and fight for a better future for Gateshead”. They also support the Core Strategy and Urban Core Plan, and the aims and objectives of the North East Transport Plan.
2. Outdoor air pollution is a major risk to human health. As outlined in previous reports to Cabinet, based on national estimates, poor air quality is considered to be responsible for hundreds of deaths each year across Newcastle and Gateshead. The main cause of roadside air pollution, including nitrogen dioxide, is road transport, which also has wider impacts on public health and is a significant contributor to carbon emissions and climate change.
3. The Council is subject to the requirements of the Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2017 and the Environment Act 1995 (Gateshead Council and Newcastle City Council) Air Quality Direction 2020 and the duties set out therein. The two Councils have the power to create a Clean Air Zone by means of making a legal order to introduce a charging scheme pursuant to the Transport Act 2000.

Background

4. Following approval by Gateshead and Newcastle Cabinets and Full Councils, a Full Business Case was submitted to government in November 2021, setting out the economic, strategic, management, commercial, financial impacts of the Clean Air Zone. This Business Case was subsequently approved on 24th March 2022 at which point there was clarity on funding availability for the Councils and affected businesses/vehicle owners, with additional funding from government also being provided to deliver the CAZ system.
5. Since late March 2022 it has been possible to accelerate delivery workstreams and to review the delivery strategy, where possible considering concerns expressed about impacts on business and readiness of vehicle owners to comply with CAZ requirements.
6. While the introduction of a Clean Air Zone charge has been of significant concern for many vehicle owners, the requirement for such measures to achieve and maintain compliance with legal pollution limits has been documented in past reports to Cabinet and Full Council. It is acknowledged that the legal framework for this project recognises that given the priority is on improving public health, economic considerations can only become part of the decision making when different approaches achieve compliance in the same timeframe. Within this context, with compliance being achieved in 2023, the implications for owners of vehicles and the economic impact of these measures can be considered. Particularly those where the availability of upgrade or replacement vehicles may have altered from when the measures were first outlined.
7. Along with delivery timescales for vehicles such as buses and wheelchair accessible taxis, where the approach taken is such that a vehicle owner accessing a grant will be given time for their vehicle to arrive, it is acknowledged and reported nationally that there is a vehicle supply issue for compliant goods vehicles and this in turn impacts on the cost of purchase. Whereas with some Heavy Goods Vehicles there are accredited solutions involving retrofitting engines, there is no such accredited approach for Light Goods Vehicles. Given the lack of availability of Light Goods Vehicles nationally and the increasing costs and economic uncertainty due to a variety of factors, it is considered a prudent step to defer charging non-compliant Light Goods Vehicles until mid-2023. This

step is being proposed on the basis it would not affect the date at which roadside nitrogen dioxide levels would reach compliant levels as this is an annual mean average and so cannot be achieved before 2023. This approach would allow additional time for some vehicle owners to secure grant funding and source replacement vehicles.

8. As outlined earlier in the report, given the business case was not approved until March 2022 and the resulting delay in implementing a CAZ C, it is currently proposed the phased implementation of the CAZ C (taxis, buses, coaches and HGVs initially, with LGVs at a later date) should be agreed. This has the potential to limit the impact of the charge when applied to small businesses using LGVs whilst also achieving air quality standards.
9. This approach to phase implementation has been discussed with government officials and had been provided to Ministers for approval. Given circumstances outside of the control of the councils, at the time of publication of this report, we have been unable to secure formal agreement of this approach from Ministers, nor have we received an updated Legal Direction that takes into account the approval of the Business Case in March 2022. In order to help ensure people and businesses can prepare for the Clean Air Zone, it was considered appropriate to outline the proposed approach despite not having secured formal agreement from government.
10. It is currently proposed to revise the introduction of the CAZ C to November 2022 in recognition of the concerns expressed about the time for vehicle owners to prepare. The commencement of the CAZ in November 2022 will consist not of charges or penalty charges but of issuing early notice letters. This approach will maximise the opportunity to drive compliance with air quality standards by advising vehicle owners with non-compliant vehicles that they have entered the zone, remind them of the opportunities for financial support to help them upgrade their vehicle and inform them about when the CAZ will introduce charges and fines for non-payment.
11. It is proposed that charging of non-compliant higher polluting vehicles, excluding LGVs, will commence on 30th January 2023. At that stage awareness of the Clean Air Zone will have increased, vehicle owners will have had the opportunity to replace or retrofit non-compliant vehicles or access grants and ensure upgraded vehicles are ordered (with the opportunity for an exemption until delivery of the vehicle).
12. The aim of the scheme is to improve health by driving improvements in air quality, not raise money by issuing fines for non-payment of the charges to vehicle owners. It is therefore proposed that the charging period will commence with only charging for entry to the CAZ. Subject to our external provider implementing a suitable technical solution to enable this approach, it is proposed that penalty charges for non-payment of the CAZ charge should not be issued for a period at the outset of the CAZ's charging operation.
13. It is proposed that the draft legal order is amended to include exemption from the charge for Light Goods Vehicles until 17th July 2023.
14. The approval of the full business case by government in March was accompanied with clarification on funding available for grants to vehicle owners wishing to replace their vehicles or in some cases retrofit the engines. £18.2m funding will be made available for grants to replace non-compliant vehicles. A process to allow vehicle owners to apply for grant funding has been developed and access to the grants for those eligible, should be available from October 2022. This will include access to low interest finance or interest free loan arrangements. Vehicle owners will be able to pre-register details in advance to ensure eligibility checks can take place and the grants can be issued rapidly.
15. In order to distribute this grant funding and ensure maximum uptake, the Councils wish to offer a full solution with financial products as well as grants, as grants alone may not cover the cost of upgrades. Therefore, the Councils are seeking a suitable procurement route and has chosen to opt into the Bath and North East Somerset (BANES) financial support framework. This Framework was developed to secure financial providers and its publication allows for other councils to opt in and run a further competition. The Newcastle City Council (under the previously agreed delegation – February 2022) will

publish an invitation to tender under this framework and pre-qualified financial providers will be invited to tender to manage and administer grants on behalf of Newcastle City Council. These providers will also supply low interest finance or interest free loan arrangements, in the form of purchase hire agreements or other such financial products. The estimated budget of this procurement is £18.2m as this is the amount of grant funding available. A separate £1.7M of funding for buses will be managed by Newcastle City Council. Once the tender evaluation is complete, and subject to approval of the Newcastle cabinet report, a delegated decision by the Newcastle Council Director of Place will award the contract. This approach will ensure the quickest route to offering grants for affected vehicle owners.

16. In addition and following further discussion with operators, it is proposed to add three further classes of exemptions from the charge to the list reported to Cabinet in September 2021 and subsequently approved by Full Council in September 2021 and appended to the Cabinet report in February 2021. These are 1) rail replacement buses and coaches where unplanned emergency works are required; 2) driver training buses and HGVs that are one off specialist vehicles; 3) recovery vehicles; 4) private hire and hackney carriages and LGVs operated by those who reside within the CAZ and 5) hybrid vehicles. In the previous draft of the Charging Order hybrid vehicles were classed as being compliant. JAQU have since advised that hybrid vehicles should be dealt with by way of an exemption.
17. Compliance with the Government direction on air quality (annual mean averages) must be met in the shortest possible time. Given the approval of the business case in March 2022 it is considered the introduction of the CAZ in November 2022, with charging commencing in January 2023, will meet that objective.
18. Work is progressing on infrastructure implementation and testing of ICT systems in preparation for commencement of the scheme. This includes work in preparation of the issue of grants to vehicle owners wishing to replace older non-compliant vehicles. Newcastle City Council as lead authority is procuring a provider who will ensure that in addition to grants, the ability to access finance will be made available.
19. The phased introduction of the charge for Light Goods Vehicles will allow vehicle owners additional time to source and replace their non-compliant vehicles ahead of proposed charging in July 2023.
20. It is not considered the deferment of the LGV charge will significantly impact on the rate of reduction in nitrogen dioxide levels given the fleet will change during that period through natural replacement and uptake of grants to upgrade or replace vehicles. Modelling that the councils have done indicates that compliance can be reached in 2023.
21. The overall financial position of the programme remains as detailed in the September 2021 cabinet report (Clean Air Plan for Newcastle and Gateshead) with the addition of a further £2.5m implementation funding to be awarded by government to support the delivery of the CAZ.
22. The financial model is being reviewed based on the current implementation proposals. The new start date and the exemption of LGVs and other vehicle types will have an adverse impact on income generated from the scheme, however this will be offset by reduced staffing and other costs resulting from the delay in commencement. This combined with the introduction of the CAZ on the basis of the 'new burdens principle' mean that if the requirement to introduce the CAZ leads to a negative financial position, any deficit should be funded by government to ensure the new policy is cost neutral to councils. The councils will retain sufficient funding from income received to enable decommissioning of the scheme once compliance with air quality standards is reached and successfully maintained.

Timetable for implementation

23. Subject to final agreement of the timescales by government, signage for the scheme and operational testing of cameras would commence in September 2022. It is proposed to collect data (Vehicle Registration Marks) of vehicles entering the zone using Automatic Number Plate Recognition Cameras in October 2022. Those older higher polluting vehicles would be identified and letters issued to the owners in November 2022 advising they have entered the zone. It is important to note no charging would commence at that stage.
24. Again, subject to agreement with government, it is proposed that daily charging of older higher polluting non-compliant vehicles will commence on 30th January 2023. A daily charge will be applied at that point to non-compliant buses, HGVs and taxis.
25. It is also proposed that a period of grace would be introduced from 30th January during which period vehicle owners would not be met with a penalty charge for failure to pay the CAZ charge within the specified period.
26. In advance of being charged, owners of non-compliant Light Goods Vehicles that enter the CAZ would be issued with Early Notice letters. Charging of non-compliant Light Goods Vehicles would then commence in July 2023. The exact dates of the warning notices and any period of grace from issue of a penalty charge notice would be considered and outlined in early 2023.
27. An invitation to tender to manage and administer the grants scheme is to be issued in July 2022 with tender submissions received in September 2022 and award of contract intended to be made in October 2022.

Consultation

28. All necessary consultation in relation to the making of the Charging Order has been undertaken and no inquiry is considered necessary.
29. The charging scheme being introduced by the Charging Order will not come into force before November 2022. At least 28 days advance notice of its coming into operation will be given to the public by press notice.
30. In preparing this report, consultations have taken place with the Leader, Deputy Leader and portfolio holder for Transport and Environment.

Alternative Options

31. The legal and administrative decisions set out are required to implement the CAZ. Time is critical in delivering compliance with the legal air quality standards and therefore it is necessary to take steps relating to the introduction of the CAZ. Implementing the CAZ without the phased approach set out above, would not bring forward the compliance date however would have an impact some on vehicle owners affected.
32. Failure to achieve compliance with air quality standards as defined in EU directives, which have also been incorporated into UK law exposes the council to legal risks.
33. The primary measure of success will be through the reduction in exposure to NO₂ in the areas of exceedance. It must be noted that for some pollutants there is no safe level of exposure and other pollutants such as particulate matter also cause significant public health issues. The councils have consistently highlighted the disjointed nature of the legal direction in that it considers only one pollutant.
34. The Full Business Case approved by Full Council in September 2021 contains a Monitoring and Evaluation plan as part of the Management Case which sets out the way in which the authorities will evaluate the Clean Air Zone.

35. The Joint Air Quality Unit has also commissioned a comprehensive programme of national monitoring and evaluation for Clean Air Zones. Newcastle and Gateshead will be participating and providing data for this work.
36. The performance of the CAZ will be kept under review and the authorities are required to consider extending or upgrading any CAZ to incorporate private vehicles if compliance with legal air quality values is not achieved.
37. Councils could also choose to review the CAZ in response to other environmental concerns such as reducing carbon emissions. This could result in increases to the geographical scope, classification or changes to the pricing of the Clean Air Zone. Such changes would be subject to appropriate additional consultation and approvals.

Implications of Recommended Option

38. Fairness

39. The CAZ could have a negative impact on users of taxis and private hire vehicles and bus services, as well as those who make use of light and heavy goods vehicles. We will attempt to mitigate these impacts through the award of grants and the temporary exemptions from the Clean Air Zone.

40. Economy

41. It is acknowledged that the legal framework for this project recognises that given the priority is on enhancing public health and economic considerations can only become part of the decision making when different approaches achieve compliance in the same timeframe. Within this context, with compliance being achieved in 2023, the implications for owners of vehicles and the economic impact of these measures can be considered. Particularly those where the availability of upgraded or replacement vehicles may have altered from when the measures were first outlined.

42. Resources:

a) Financial Implications –

The Strategic Director, Resources and Digital confirms that the proposed option to implement the CAZ measures will have zero impact upon council budgets and will be funded through government grants and income generation specific to this scheme, any shortfalls therein would be mitigated through review and scaling back of the project.

b) Human Resources Implications –

There are no human resources implications.

c) Property Implications -

No property implications have been identified.

43. Risk Management Implication -

44. Poor air quality is impacting on people's lives and health and needs to be addressed as the key risk to this project. We have seen a number of improvements in recent years but need to continue to do so through this plan and engaging with people about their travel choices. This is linked to wider work the council is undertaking on climate change and investment into our transport networks.
45. A further fundamental risk is failure to achieve compliance with air quality standards as defined in EU directives, which have also been incorporated into UK law. Continued failure to achieve compliance exposes the council to legal risks.
46. While additional funding had been sought from government (both in terms of how much would be available to many vehicle owners and to how many grant awards could be offered), government have confirmed the same amount as was previously provided for

mitigation of the CAZ. A further £8.4M 'stretch' funding may be available subject to meeting criteria that will be outlined to the councils but was not available at the time of publication of this report. A further £2.5m has been made available for the implementation of the CAZ.

47. Joint arrangements for governance of the CAZ have previously been approved in the form of the setting up of the Air Quality Joint Committee with Newcastle City Council which are in accordance with the provisions of the Council's Charter and sections 101 of the Local Government Act 1972, section 9EB of the Local Government Act 2000 and the Local Authorities (Arrangement of the Discharge of Functions) (England) Regulations 2012.
48. Given recent changes in government, it is not clear when the authorities can expect a revised legal direction or formal confirmation of our phased approach. We aim to mitigate this delay by continuing with the work outlined in this report. Clearly, the earlier we can receive assurances from government to the phased approach the more certainty the people and businesses of the area will have over timescales.
49. **Equality and Diversity Implications -**
The Council fulfilled its duties under the Public Sector Equality Duty by undertaking an integrated impact assessment on the Charging Clean Air Zone in support of the full business case.
50. **Crime and Disorder Implications –**
None
51. **Health Implications –**
52. The proposed CAZ delivers compliance with Nitrogen Dioxide limits in the same timeframe as the CAZ D and CAZ C with traffic restrictions (2022) and more quickly than a 'Do Minimum' case without a CAZ.
53. **Climate Emergency and Sustainability Implications -**
54. The CAZ is critical to not just reducing nitrogen dioxide levels but is also influencing the transition from Internal Combustion Engines (ICE) to Ultra Low Emission Vehicles (ULEV) and thereby reducing harmful greenhouse gas emissions to the atmosphere. While the phased implementation proposed will have some impact on the timescales for the benefits previously outlined in previous Cabinet reports, it is still the case that the recommended option leads to lower carbon emissions than taking no action and consequent positive impacts in terms of the Council's commitment to achieving Net Zero by 2030.
55. These impacts occur due to a reduction in the total number of trips made, as well as upgrading vehicles to newer models, which emit lower levels of greenhouse gas emissions. The approach proposed of a phased deployment of the Clean Air Zone is reasonable given the market limitations at present and should help balance the availability of electric vehicles on a commercially viable rate against the timing. There is a need to balance the drive towards faster electrification and decarbonisation of transport with the evolution of the market to meet the demand.
56. There are numerous co-benefits of the Clean Air Zone class C including:
 - a. Increased supply chain with local and regional inclusive economic green growth opportunities. The North East region is already seeing the investment benefits of such schemes including for example the North East Battery Alliance and recent announcements of the opening of giga-factories.
 - b. Increased numbers of green jobs through various aspects of the electric vehicle supply chain including manufacturing of key components, electric vehicle charging infrastructure installation, among other activities.

- c. Potential to improve local business competitiveness by adopting electric vehicles which can achieve significantly lower operating cost per mile travelled than a corresponding diesel or petrol vehicle.
57. It is noted that the Clean Air Zone will act as a driver for growth in demand of electric vehicles and secure the benefits listed above, provided it is delivered in an appropriate timescale that corresponds to market developments and supply conditions.
58. It is important to note that the Government's Clean Air Zone Framework, which does not charge older petrol vehicles, could lead to some users switching to older petrol vehicles with greater greenhouse gas emissions.
59. **Human Rights Implications** – None.
60. **Ward Implications** - All wards will be affected.

Background Information

61. The DEFRA Air Quality Plan July 2017 - <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>
62. DEFRA Clean Air Zone Framework - <https://www.gov.uk/government/publications/air-quality-clean-air-zone-framework-for-england>
63. Minutes of Gateshead Council, 23/1/20, Approval of Breathe: The Clean Air Plan for Gateshead, Newcastle and North Tyneside
<http://democracy.gateshead.gov.uk/ieListDocuments.aspx?CId=140&MId=2373>
64. Minutes of Gateshead Cabinet, 20/7/21, Breathe: The Clean Air Plan for Newcastle and Gateshead, Update Report [Agenda for Cabinet on Tuesday, 20th July, 2021, 10.00 am Gateshead Council](#)
65. Agenda and [minutes of Gateshead Cabinet 14/9/21](#)
66. Agenda and [minutes of Gateshead Cabinet 22/2/22](#)