

## Consultation response form

### Consultation Response Form

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**1. Do you agree with the proposal to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years? If not, please provide details**

Yes, we welcome the commitment to review the plan or strategy at least every five years.

**2. Do you agree with the proposed timescales for the review of the Clean Air Plan or Strategy? If not, please provide detail.**

Yes.

**3. Do you agree Welsh Government should introduce a framework to set new air quality targets?**

Yes. Air pollution is an occupational and public health emergency. The Wales TUC supports the introduction of stringent legal limits for ambient air quality, which reflect WHO (World Health Organisation) guidelines. [The Trade Union Clean Air Network \(TUCAN\)](#) has stated that such targets are urgently needed to protect the health and safety of workers and the wider community.

We note that this proposed Bill and employer clean air strategies could have implications for jobs and employment. To ensure fairness and avoid unintended consequences, the application of 'Just Transition' principles is vital. This should include full consultation and negotiation with relevant industry unions at both national and workplace level. It should also include comprehensive equality impact assessments to ensure positive and fair outcomes for all workers.

'Just Transition' is a key requirement of the Paris Agreement, as set out in the [Silesia Declaration](#) and defined by the UN International Labor Organization's [global guidelines for just transition](#). Social dialogue between employers and workers and their unions is the basis of just transition, and a key part of the OECD Guidelines for Multinational Enterprises. We note that the Welsh Government is also proposing a new Social Partnership and Procurement Act which will establish a social partnership duty on 'inscope' public bodies to consult with their recognised trade union(s) when exercising

certain functions concerning their well-being objectives when carrying out their sustainable development duty under the Well-being of Future Generations Act.

In the White Paper consultation document, it says: “In setting new targets for air quality in Wales, we want to achieve mutually beneficial and sustained outcomes across sectors, avoiding unintended consequences”. We believe that including a commitment to applying ‘Just Transition’ principles in the application of this Bill is fundamental to achieving this goal.

**4. Do you agree with the proposed air quality target setting framework? If not, please provide evidence to support your answer, if available**

Yes. We support the proposed evidence-based approach for the air quality target setting framework and welcome the commitment to provide all stakeholders (including trade unions) with an opportunity to scrutinise the details and level of ambition.

**5. Do you agree there is a need to clarify and strengthen legislation? If so, do you agree with the approach outlined?**

Yes. We support the proposal to develop a clear and more integrated legislative and regulatory Local Air Quality Management (LAQM) system. And we welcome the proposal to update it to take account of the Well-being of Future Generations Act, including the well-being goals and ways of working set out within the Act.

We agree that a stronger focus on preventative action is needed. A key aspect of this is awareness raising and greater access to air quality information for workers and the general public. We want to see improved monitoring networks (both static and mobile). We believe that greater public access to real-time and hyper-local information on air quality is particularly important in urban, high density areas that tend to experience higher levels of ambient air pollution. We also want to see greater access to workplace monitoring equipment facilitated across Wales.

One way to support better workplace monitoring would be for Welsh Government/local authorities to make mobile monitoring equipment available for use on loan by workplace trade union health and safety reps. Whilst it is the employer’s duty to protect their workforce from occupational air pollution, a joint approach between employers and unions is often the most effective in tackling the issues. Trade union health and safety reps are often best placed to raise issues on behalf of members (who may not feel confident in raising them with employers directly) and in pushing for action on monitoring and prevention where employers are slow to act. Recent sample monitoring carried out by health and safety reps using equipment provided by TUCAN has uncovered concerning levels of air pollution in both indoor and outdoor settings across different workplaces. We believe this is likely to be indicative of wider problems and that current statutory arrangements for monitoring and enforcement are insufficient.

We wish to see coordinated action from Welsh Government to ensure effective enforcement and compliance where it is identified that improvements are needed. Strict and effective enforcement is vital. This will require increased resourcing of the relevant enforcement agencies of the occupational and environmental legislation with the power

to hold public bodies and employers to account. Representatives of the trade union movement must have seats on the relevant agencies and enforcement bodies should ensure their officers consult with workplace trade union reps during workplace inspections.

**6. Do you think a mutually agreed compliance date on a case by case basis will help to achieve air quality improvements in AQMAs, in the soonest possible time? Please provide detail.**

Yes. We agree with the proposed requirement for Local Authorities to provide a projected compliance date for all AQMAs (to be agreed with Welsh Ministers), following production and appraisal of an AQAP. We agree that this will help to drive forward effective and timely action to lower pollution levels below statutory limits.

**7. How can we ensure the 'partners' concept improves and supports collaboration in improving air quality?**

It is important that all Local Authorities and partner organisations proactively involve their own workforces in action to improve air quality. The best way to do this is for employers to work jointly with trade unions to develop strategies to improve air quality.

Inspectors from enforcement agencies should also consult with trade union representatives during workplace inspections.

Please see our response to question 19 for more information about joint working with unions.

**8. Will these proposals collectively help to deliver a more proactive and prevention focused LAQM regime?**

Yes, we believe the proposals will help to deliver on these aims in principle. But this will only be realised if monitoring capacity is increased adequately, accurate air quality data is made more widely accessible, enforcement is fully resourced and workforces are properly involved using 'Just Transition' principles.

**9. Do you think the proposals would support the efficient and effective roll-out of Clean Air Zones / Low Emission Zones in Wales?**

Yes, however it is vital that 'Just Transition' principles are also applied in the development and roll-out of all Clean Air Zones/Low Emission Zones in Wales to ensure that these do not unfairly penalise certain groups of workers. For example, those on low incomes or those with caring responsibilities. These workers may be less able to afford newer lower emission or ultra-low emission vehicles or may have difficulties in accessing public transport. There is a risk that if not introduced fairly, charging could increase poverty and barriers to employment among these groups and worsen socio-economic inequality.

Schemes should be designed in full consultation with workers and communities and incorporate measures to ensure they make adjustments to improve fairness, eg adjustments for those on low incomes. For example, delayed implementation of charges for those below certain income thresholds and incentives such as targeted vehicle

scrappage schemes (eg aimed at those on low incomes with older more polluting vehicles) are examples of measures that have been introduced in the Midlands.

The position of specific groups of workers also needs to be considered. For example, many shift workers (such as carers) are on lower pay and rely on cars because they do not have the option to use public transport due to shift start and finish times or workplace locations. It is vital that these workers are protected from the financial impact of any charging schemes and that measures are put in place to ensure they are not disadvantaged.

Taxi drivers are another group of workers whose situation needs specific consideration. The financial challenges facing taxi drivers are significant and these have worsened considerably with the ongoing income restriction due to Covid and closure of hospitality venues etc. These specific challenges should be recognised and more support should be offered to help taxi drivers to upgrade to lower emission vehicles. For example, schemes such as grants or long-term interest free loans should be made available to taxi drivers to enable them to afford compliant vehicles as these are currently unaffordable for most drivers.

The [IPPR's recent South Wales Climate and Fairness Panel](#) (citizen's jury) considered some of the issues around fairness in the transition of transport and its recommendations may also be helpful in informing policy.

**10. Do you believe revenue raised through trunk road charges should be available for purposes other than to support local transport policies (please specify)?**

Yes, we agree that there is case that any revenue raised from charges of this kind that may arise in future could be made available more widely as stated to “achieve wider economic, societal, cultural and environmental priorities such as improving air quality, sustainability and benefiting ‘placemaking’ and health.”

We believe that such schemes should only be brought in after a comprehensive equalities impact assessment and full consultation with workers and communities. Any revenues raised should be used to support fairer socio-economic outcomes in the transition to lower carbon forms of transport and emissions reduction. For example, revenue from charges could be put towards funding schemes that reduce the economic impact of such charging schemes on those with low incomes.

Revenue could be used to support place-based initiatives such as [‘Better Jobs, Closer to Home’](#) to provide more good quality job opportunities closer to where people live to reduce the need to travel for work in the first place. Or to support improved air quality monitoring resources, workplace and community action on air pollution and access to additional health information and support for those most affected by air pollution.

The above should be alongside more funding and support for alternative methods of travel such as active travel, low-carbon public transport and ULEV infrastructure.

**11. Do you agree with the proposals relating to tackling engine idling?**

Yes, we agree it is important to tackle engine idling. Enforcement action, following awareness raising and other measures, can have a role to play in terms of providing a deterrent effect to prevent or reduce air pollution where other measures have failed to stop the problem.

**12. What do you think are the advantages/disadvantages of the proposals?**

We are concerned by the suggestion (on page 28-29 of the White Paper) that enforcement on engine idling might be targeted on the basis of vehicle age, with the suggested that drivers of older taxis and private vehicles might be singled out for enforcement fines.

Whilst we understand the motivation behind this proposal is to reduce some of the most harmful emissions, we believe that such targeting could result in unfair outcomes, with those on lower incomes being disproportionately targeted for fines ahead of those who can afford newer vehicles. For example, according to the proposal in the White Paper someone engine idling outside a school in a newer, large, heavy 4x4 vehicle would not be targeted for a fine but someone in a small, older family hatchback could receive a fine for the same behaviour in the same location. This does not meet the test of fairness and is also not compatible with the Socio-Economic Duty which has been commenced under the Equality Act.

We believe that all enforcement strategies to prevent engine idling should be developed in close consultation with workers and communities to ensure they are (and are perceived to be) fair and do not unfairly penalise those on low incomes.

For example, taxi drivers have already been hit by huge reductions in income due to Covid restrictions and many cannot afford to upgrade older vehicles for newer lower emission vehicles. Measures to tackle engine idling must be developed in close consultation with taxi drivers (and their unions). As well as awareness raising of the impact of engine idling and any potential enforcement measures, there should also be a package of support (such as grants or long term interest- free loans) to enable taxi drivers to switch to lower emission vehicles.

**13. Can you suggest any additional approaches to tackle engine idling?**

It is important that measures to tackle engine idling are included within workplace clean air strategies, and this should be reflected in the statutory guidance for private and public sector employers.

Enforcement measures against employers who fail to protect their workers from engine idling and exhaust need to be robust to ensure that employers are adequately protecting workers from the negative health impacts of engine idling on private land (eg private roads and car parks on the employer's premises). Current statutory enforcement arrangements are insufficient.

Engine idling is a significant contributing factor to poor air quality in many workplaces. The impact is significant on indoor air quality as well as outdoor air quality. This is often

the case where idling occurs in enclosed spaces or in close proximity to windows, doors or other sources of ventilation.

One particularly concerning example of this issue is the impact of engine idling and diesel exhaust on workers in 'drive-thru' restaurants. Many young, vulnerable workers work in the fast food industry. It is a sector which employs workers on zero hours contracts and often disregards their health, safety and welfare. Staff on zero hours contracts feel vulnerable, they are often on low wages and do not know when they will get work or when they will be paid next. This makes it difficult to organise them in to trade unions, although unions are working hard to try to organise the sector. Our affiliates report that even basic minimum safety measures are often not carried out or are disregarded by managers – for example workers are often prevented from closing windows by supervisors. The BFAWU and Hazards have produced a leaflet outlining some of the issues facing workers in this sector which has been sent as an attachment along with this consultation response.

Press reports of recent research highlighting the problem of air pollution in drive-thrus can be found here:

<https://www.coventrytelegraph.net/news/coventry-news/air-pollution-mcdonalds-kfc-costa-17804352>

**14. Do you have any evidence to present on the links between emissions and exposure in respect of idling?**

Information on diesel exhaust and engine idling:

A report on some of the hazards faced by workers exposed to diesel exhaust (including as a result of idling) is available here: <https://www.hazards.org/chemicals/diediesel.htm>

TUC guidance on diesel exhaust in the workplace:

<https://www.tuc.org.uk/sites/default/files/DieselExhaustWorkplace1.pdf>

**15. Do you agree with the proposal to transpose Part 3 of the Clean Air Act 1993 (Smoke Control) into Welsh legislation?**

Yes. However, we would stress that it is important that the suggested support for households “to ensure no-one slips into or remains in fuel poverty as a result of any prohibition on fuels or appliances, or an extension to the use of SCAs” is put in place.

Also, any consultations on proposals affecting the domestic burning industry which may have an impact on jobs or employment should also include the trade unions of workers in this sector, as well as industry representatives.

**16. Are there any other aspects of the Clean Air Act which you would consider appropriate for inclusion within Welsh legislation?**

**17. Do you agree changing the enforcement regime from criminal to civil action will assist in improving enforcement?**

Yes.

**18. Would you agree in light of the evidence there should be a presumption in favour of Smoke Control, at a minimum in urban areas?**

In view of the impact of domestic burning on air quality, yes. This step will improve air quality for all but will particularly improve the occupational health and safety of outdoor workers.

**19. Do you agree with the proposals?**

We welcome the proposals to create statutory guidance, which would place a duty on public, private and voluntary bodies to report progress (every 6 months) and to be accountable for their responsibilities.

However, we believe that the inter-sectoral guidance needs to go beyond the stated aim of 'promoting and enhancing awareness of the sources of air pollution' and 'providing advice on how to tackle them'. To be effective, it should focus on employers responsibilities to both reduce the exposure of their workers to air pollution and to minimise their organisation's emissions of pollution.

It is important that the guidance should reference the employer's responsibilities in respect of the Health and Safety at Work Act in relation to air pollution. The guidance should advocate a joint approach, with employers encouraged to develop clean air strategies and related policies in close consultation with unions.

Air pollution is mainly caused by work related activities so workplaces have a key role to play in improving air quality. And employers also have a legal duty to prevent workers from being exposed to harmful air pollution. The Health and Safety at Work Act says that all employers must make a "suitable and sufficient assessment" of the risks to health from anything in the workplace. After the risk assessment is done, the employer has to take any necessary steps to prevent or adequately control exposure to any hazards. But this is currently not happening in respect of air pollution in many workplaces.

Air quality monitoring is not widespread within workplaces and in many it is non-existent. Workers do not have access to information on air pollution and may not be aware there is a problem, ascribing any symptoms experienced to another cause (eg allergies). There is also a common misconception that air pollution is only a concern for outdoor workers. In a recent survey we carried out of union reps in Wales, 75% reported that their members are concerned about air pollution. But workers who raise concerns directly with their employer can find it difficult to get their concerns heard or any action taken. Due to the nature of the employment relationship, many workers may not feel confident to raise concerns with the employer in the first place. This is why recognition of the legal responsibilities of employers and the role of trade unions in speaking up for workers within the guidance is vital.

The guidance must also be supported by the provision of improved access to mobile air quality monitoring equipment. This needs to be made available on loan to facilitate

workplace monitoring. The guidance should include clear information about what monitoring equipment is available and how employers, trade union representatives or any other workers who wish to do so may access the equipment and carry out workplace monitoring.

Recent monitoring by trade union health and safety reps (with mobile equipment kindly provided on loan by TUCAN) has indicated that air pollution can be highly localised within specific and sometimes unexpected areas of workplace buildings (for example, one recent monitoring exercise uncovered a particular problem in a workplace canteen, which had not been suspected as a problem area). This demonstrates that far more extensive and varied monitoring is needed within workplaces in order to fully identify problem areas and ensure adequate prevention and control measures are in place to protect workers.

We note that the COSHH (Control of Substances Hazardous to Health) Regulations and related guidance have not yet been amended to reflect new research on indoor and outdoor air pollution. We call for the statutory guidance being proposed as part of this Bill to include guidance on workplace exposure limits to place duties on employers to monitor and adopt control measures for diesel and other toxic vehicle emissions not currently covered by HSE (Health and Safety Executive) EH40.

With increasing awareness of the importance of ventilation in relation to Covid prevention, it is also likely that more workplaces will be using additional forms of ventilation. In some workplaces this may lead to an increase in the ingress of outdoor air pollution into indoor spaces (eg where windows are opened next to busy roads or car parks etc). This means access to monitoring equipment to effectively monitor overall workplace air quality will become even more important.

In line with [TUCAN guidance](#), we would like to see the proposed statutory guidance call on employers to commit to:

- Include air quality measures for indoor and outdoor occupational air pollution as part of the consultation requirements of the SRSC (Safety Reps and Safety Committees) Regulations. Measures should cover both employees and others, and especially the needs of vulnerable occupants of buildings, including in particular children and young people.
- Publish an air quality risk assessment and produce a workplace clean air strategy. These should include the adoption of action to monitor and adopt control measures for diesel and other toxic vehicle emissions not currently covered by the HSE (Health and Safety Executive) EH40. As part of their clean air strategy, employers should be required to raise awareness and support workforce training on risks and control measures. They should also provide workers with access to independent advice on exposure levels and health effects.
- Demonstrate that they have consulted fully and worked jointly with workplace trade unions on the development of their workplace clean air strategies and related policies. Jointly signed off policies would be evidence of this. Working jointly with trade union reps such as health and safety reps and green reps is more likely to result in strategies that have the support of the workforce and achieve successful outcomes. Working with unions is also important to ensure the application of Just Transition principles in the development of strategies, to

ensure equality impact assessments are comprehensive and positive and fair outcomes for all workers. Working jointly with unions will also be helpful to identify and address any skills needs that arise from changes in the workplace (eg awareness raising or vocational training that may arise due to new types of vehicles or ways of working). Employers should also be encouraged to work with unions to jointly develop other related policies which can both contribute towards improvements in air quality and wider environmental and social benefits. Examples of related policies include joint environmental agreements, transition agreements and comprehensive workplace travel plans that provide support for alternatives to private vehicles by effectively supporting and encouraging workers to use active travel and public transport.

**20. What are the advantages/disadvantages of the proposals?**

Without the inclusion of the provisions suggested in our response to question 19, we are concerned that the proposals are unlikely to be sufficient to provide a robust mechanism to tackle the occupational health emergency of workplace air pollution. Evidence shows that unionised workplaces are safer. Unions have a clear role to play in ensuring that worker voice is heard, workers are protected and engaged and their concerns are addressed. We would like to see the trade union role in tackling air pollution being made integral to the statutory guidance (whilst recognising the legal responsibilities of employers).

**21. In what other ways or by whom could the guidance be delivered? Please provide detail.**

As outlined in the response to question 19, trade unions have a key role in joint working with employers on air quality, or in pressing them to act where they are slow to do so.

TUCAN is an important source of information, resources and expertise in tackling workplace air pollution. At a UK level it has produced a [charter](#) and [guidance on air pollution for trade union reps](#) which includes a helpful checklist. It has also worked with the Greener Jobs Alliance to produce an [online training course on air pollution for trade unionists](#). The Wales TUC could work with TUCAN to develop Wales specific guidance and training to support the implementation of the statutory guidance.

In addition to working closely with trade union reps and health and safety reps, employers should also recognise and provide facility time for trade union green or environmental reps. This is a specialised trade union representative focussed on improving workplace sustainability. Green reps can work with members and employers to help develop successful joint approaches (for example, comprehensive workplace travel plans) which can help support both workplace clean air strategies and the wider aim of decarbonisation. The Wales TUC has recently published a new 'greener workplaces' guide which includes information on air pollution and detailed guidance on developing work travel plans.

<https://www.tuc.org.uk/greener-workplaces-just-transition-wales-tuc-toolkit-trade-unionists>

A [short video](#) which explains the role of green reps is also available.

In the responses above, we have also stressed the importance of a more coordinated approach to enforcement, with more joined up working and increased resources for enforcement agencies to take action against employers who fail to protect workers from harmful air pollution in the workplace.

**22. What would be best way(s) for stakeholders to report progress to the Welsh Government?**

Having more information available on the Air Quality Wales website would be helpful in providing a central point of information. This could include employers' air pollution risk assessments and clean air plans. The [health and safety forum](#) that has been set up to improve the approach to health and safety at work in Wales could also provide a useful route for trade unions to share information, report on progress and raise any concerns.

**23. Do you have any additional points to make?**

We would advocate advanced workforce and skills planning linked to the proposed Clean Air (Wales) Bill. This should happen to enable the early identification of any new job opportunities related to the legislation. Forward planning is needed to ensure training pathways are in place for the new roles that will be required to fulfil the aims of the legislation (eg opportunities for new air quality apprenticeships to assist in monitoring and enforcement). Planning for these now could help to maximise opportunities for new, good quality jobs offering fair work at a time of economic recession and support delivery of the Act's goals.

We are concerned that the timetable set out in the White Paper does not specify a date for the Bill to be laid. If the regulations are not set until up to 2 years after the ascent of the Bill, this could result in a long delay in workers and communities being afforded more effective protection from harmful air pollution. We believe that ambition regarding the pace of delivery of this Bill should reflect the fact that air pollution is a public and occupational health emergency that requires urgent action.

**24. We would like to know your views on the effects these provisions would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

**25. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

**26. Please also explain how you believe the proposed provisions could be formulated or changed to have positive or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: