

Mayor and Cabinet			
Title	Response to Recommendations of the Sustainable Development Select Committee on Air Quality		
Key decision	No	Item no	
Wards	Crofton Park, Forest Hill and Perry Vale		
Contributors	Executive Director for Customer Services		
Class	Part 1	23 October 2013	

1. Summary & Purpose

- 1.1. The purpose of the report is to provide a response to the SDSC's recommendations following the presentation of a report on air quality to the Select Committee on 1 May 2013.
- 1.2. This report sets out the response to the recommendations of the Sustainable Development Select Committee (SDSC) regarding co-operative working on air quality.

2. Recommendation

The Mayor is requested to:

- 2.1. Note that the recommendations of the Sustainable Development Select Committee on air quality have been considered and will be acted upon and that this response be reported to the Select Committee.

3. Policy Context

- 3.1. European legislation (Directive 2008/50/EC) details the pollutants that occur in ambient air which have the potential to impact on human health. The Directive sets concentration values for each pollutant and a date by which the limit values should be achieved. Failure to meet the limit values by the deadlines can result in fines being levied against an EU member state by the European Commission.
- 3.2. Local authorities in the UK have a statutory duty to manage local air quality under Part IV of the Environment Act 1995. Following this Act, a National Air Quality Strategy was published in 1997 (reviewed in 2007) and the Air Quality (England) Regulations 2000 set objectives for several pollutants including NO₂. Although the dates for compliance with limit values in the Air Quality Directive have already passed, EU Member states are able to apply for an extension to the deadlines, which, for NO₂, is January 2015.

- 3.3. The action supports the Clean, Green and Liveable priority within the Council's Corporate Priorities and its Sustainable Community Strategy 2008-2020.

4. Background

- 4.1. The Mayor of London has a legal responsibility to prepare and keep under review an Air Quality Strategy for the Greater London area. The most recent strategy document "Clearing the Air" was published in December 2010. This proposal supports the aims and objectives contained in the Mayor's Air Quality Strategy.
- 4.2. A report was presented to Mayor and Cabinet on 10 April 2013 seeking approval to designate a new Air Quality Management Area (AQMA) following identification of exceedences of set objectives for air pollution around the B218 and B238.
- 4.3. As exceedences of the National Air Quality Objective for nitrogen dioxide (NO₂) have been identified, the local authority is statutorily obliged to declare an AQMA that covers the areas where the exceedences are occurring. Following approval from Mayor and Cabinet in April 2013, an Order was drafted to officially declare the AQMA and which came into force in August 2013.
- 4.4. A separate report was presented to the SDSC on 1 May 2013 outlining the implications of designating an AQMA in terms of developing an Air Quality Action Plan. Once an AQMA is declared, the local authority is required to develop an Action Plan detailing the measures that will be employed to help improve air quality within that area.

5. Responses to the views of the Sustainable Development Select Committee on Air Quality

- 5.1. **View:** On 1 May 2013, the Sustainable Development Select Committee considered a report on air quality. The Committee supports the Council's efforts to monitor and improve air quality. It acknowledges that officers in Sustainable Resources, Environment, Highways and Transport are working together to support this work. However, the Committee believes that partnership working could also be strengthened and broadened to include relevant housing providers and local assemblies.
- 5.2. **RESPONSE:** As the air pollution in this area arises as a result of fuel being burned, measures in the Action Plan will need to focus on motor vehicles as well as heating and cooking appliances. This will therefore be relevant to a number of different service areas within the Council including Sustainable Resources for energy efficiency measures; Parking Services, Transport and Highways for managing traffic demand; and Regeneration for ensuring that new developments minimise their emissions to air.

- 5.3. As well as partnership working with teams within the Council, external stakeholders will need to be engaged if air pollution is to be effectively reduced. Following the report to the SDSC on 1 May 2013, it was their recommendation that relevant housing providers and local assemblies be engaged and that the Council co-operates with them on future actions where appropriate.
- 5.4. The recommendations of the SDSC have been considered and action will be taken to implement the recommendations. An initial step towards engaging housing providers and local assemblies will be to involve these stakeholders in the consultation process on the development of the Air Quality Action Plan.

6. Financial implications

- 6.1. The costs of implementing the recommendations of the SDSC are limited to officer time, administration costs, etc from engaging the external stakeholders and will be contained within existing service budgets.
- 6.2. Costs associated with implementing any measures from future partnership working will be considered as a part of the Council's normal budget process.

7. Legal implications

- 7.1 There are no specific additional legal implications to insert, save for noting the following statutory Equality Act 2010 obligations.
- 7.2 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 7.4 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.5 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled

“Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

7.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

7.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

8. Crime and disorder implications

8.1. There are no crime and disorder implications associated with this report.

9. Equalities implications

9.1. Improvements to air quality within the area designated as an AQMA will benefit all people who live, work, study or use the area. However, better air quality is likely to have more positive benefits for the most vulnerable including the elderly, the young and those with pre-existing respiratory and/or cardio-vascular illnesses.

9.2. Working with partners will help ensure the effectiveness and success of measures to tackle air pollution. Measures aimed at tackling poor air quality tend to have wider benefits and can improve air quality throughout the borough.

9.3. There are no equalities implications associated with this report.

10. Environmental implications

- 10.1. Working to improve air quality and to meet the EU Limit Values is necessary for the local authority to fulfil its statutory obligations under the Environment Act 1995. Through broadening and strengthening partnership working, the success of the measures contained in the Air Quality Action Plan is more likely. This will have positive benefits for the environment.

11. Conclusion

- 11.1. The recommendations of the SDSC following the report presented to it on 1 May 2013 entitled *Air Quality Action Plan* have been noted and considered.
- 11.2. It would be good practice to strengthen and broaden partnership working with external stakeholders and would help to ensure the success of measures aimed at tackling poor air quality. Engaging the relevant housing providers and local assemblies would also help to raise awareness of the issues, thus spreading the message more widely.
- 11.3. It is the Council's intention to act on the recommendations of the SDSC and seek to engage the relevant housing providers and local assemblies in partnership working. An initial step towards achieving this would be to involve the relevant parties in the consultation process while developing the Air Quality Action Plan.

12. Report Author and Background documents

- 12.1 There are two background documents to this report:
- Air Quality Management Area 10 April 2013 –
 - <http://councilmeetings.lewisham.gov.uk/documents/s21846/Air%20Quality%20Management%20Area%20cover%20sheet.pdf>
 - Matters raised by the Sustainable Development Select Committee - air quality 19 June 2013 –
 - <http://councilmeetings.lewisham.gov.uk/documents/s22875/SDSC%20referral%20air%20quality.pdf>
- 12.2 If you require any further information about this report please contact Anthony Murphy Principal Environmental Protection Officer on 020 8314 9471.