

Welsh Parliament

Climate Change, Environment, and Infrastructure Committee

Environment (Air Quality and Soundscapes) (Wales) Bill:

Stage 1 Report

July 2023



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Environment (Air Quality and Soundscapes) (Wales) Bill:

Stage 1 Report

July 2023



About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddClimate

Current Committee membership:



**Committee Chair:
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Plaid Cymru



Janet Finch-Saunders MS
Welsh Conservatives



Huw Irranca-Davies MS
Welsh Labour



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Plaid Cymru



Jenny Rathbone MS
Welsh Labour



Joyce Watson MS
Welsh Labour

Heledd Fychan MS acted as temporary Committee Chair during this inquiry:



Heledd Fychan MS
Plaid Cymru

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- bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to make regulations setting air quality targets for nitrogen dioxide and ammonia. Regulations must be made no later than three years after the day on which the Act receives Royal Assent; and

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Recommendation 13. The Minister should:

- clarify the timescale she is working towards for extending and enhancing existing air quality monitoring capabilities;

- provide further details on how data collection will be improved for the purpose of setting and monitoring progress towards air quality targets; and
- provide an update on progress towards the development of the national air pollution monitoring and assessment service for Wales, including a revised timetable for implementation of the service.Page 35

Recommendation 14. The Minister should bring forward amendments at Stage 2 placing a duty on the Welsh Ministers to report annually to the Senedd on the steps taken to promote awareness of air pollution and progress towards actions set out in the delivery plan. We would be content for this report to be part of the wider annual report on progress towards delivery of the national air quality strategy (see Recommendation 15)..... Page 37

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- to place a duty on local authorities to prepare and publish an air quality strategy setting out the steps they will take to improve air quality across their area; and
- to enable two or more neighbouring authorities to jointly prepare a strategy to meet the duty outlined above.Page 46

Recommendation 21. If the Minister is unwilling to accept Recommendation 20, she should commit to strengthening Welsh Government guidance on LAQM to set a strong expectation for local authorities to develop local/regional air quality strategies.Page 46

Recommendation 22. The Minister should bring forward amendments at Stage 2 to ensure that section 18 of the Clean Air Act 1993 outlines the circumstances where a local authority should declare a Smoke Control Area. If the Minister is unwilling to do this, she should commit to covering this issue in statutory guidance (see Recommendation 23). Page 51

Recommendation 23. The Minister should bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to issue guidance to local authorities on the exercise of their functions under Part III of the Clean Air Act 1993. The guidance should outline the circumstances where a local authority would be expected to declare a Smoke Control Areas, among other things. Page 51

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Recommendation 27. Before the Stage 1 debate, the Minister should publish the Welsh Government’s response to its consultation on reducing emissions from domestic solid fuel burning, including next steps. The response should include a revised timetable for making regulations that is suitably ambitious. Page 51

Recommendation 28. The Minister should bring forward an amendment(s) at Stage 2 to include a duty on the Welsh Ministers to consult before making a trunk road charging scheme for the purpose of reducing or limiting air pollution. Consultees must include those who are likely to be affected by the proposed charging scheme, including the public and businesses.....Page 55

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1. Introduction

1. On 20 March 2023, the Minister for Climate Change (the Minister), Julie James MS, introduced the Environment (Air Quality and Soundscapes) (Wales) Bill (the Bill) to the Senedd. On 21 March 2023, the Minister made a statement on the Bill in Plenary.
2. The Business Committee referred the Bill to this Committee for Stage 1 scrutiny with a reporting deadline of 14 July 2023.

Terms of reference

3. The terms of reference were to consider:
 - The general principles of the Bill and the need for legislation to deliver the stated policy intention.
 - The Bill's provisions, including whether they are workable and will deliver the stated policy intention.
 - The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).
 - Whether there are any unintended consequences arising from the Bill.
 - The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

Committee's approach to scrutiny

4. The Committee undertook a public consultation between March and April 2023 and received 38 responses. 30 of these were from organisations and 8 from individuals.
5. We held oral evidence sessions with the Minister on 29 March and 24 May. Following the 29 March session, we wrote to the Minister to request a response on matters not reached during proceedings. The exchange in correspondence can be found on Senedd Cymru's website.
6. On 27 June, the Minister wrote to the Committee with further technical information to assist the Committee's scrutiny of the Bill.

7. We held a series of oral evidence sessions with external witnesses, including academics, representatives from public health and environmental organisations, and local government. Details of these can be found at the end of this report.

8. The Committee held an online public survey, which focused on provisions in relation to trunk road charging but invited comments on all aspects of the Bill. A summary of the findings can be found on Senedd Cymru's website.

Scrutiny of the Bill by other Senedd committees

9. The Senedd's Finance Committee and Legislation, Justice and Constitution Committee took evidence from the Minister on their respective areas of interest. Their reports can be found on Senedd Cymru's website.

2. General principles of the Bill

10. The Explanatory Memorandum ('EM') says the Bill fulfils the Welsh Government's Programme for Government commitment to a Clean Air Act for Wales and "to build on work already underway to reduce emissions and deliver vital improvements in air quality, supporting healthier communities and better environments".

11. The EM sets out the reasons the Welsh Government considers the Bill is needed. In summary, these are:

- To tackle the health effects of air pollution, which according to the World Health Organisation ('WHO') is the world's largest single environmental health risk;
- To address the knock on effects on the economy of the health impacts of air pollution;
- To tackle the adverse effects of air pollution on the environment and wildlife;
- To address noise (meaning unwanted or harmful sound) which, according to the WHO, is the second biggest environmental contributor to ill health in Western Europe after air pollution; and
- To address gaps in the existing legislative framework for air quality and noise.

Evidence from contributors

12. There was widespread support in evidence for the general principles of the Bill and the need for legislation to help deliver improvements in air quality and reduce the impacts of air pollution.

13. Dr Victoria Jenkins said, "The Bill is very timely in addressing the important issue of air quality in Wales in light of increasing scientific evidence of the effects of a range of pollutants on human health and the environment". She added, "It is important, especially in the context of Brexit, to ensure that the Welsh Government has the necessary powers to address air pollution concerns at a national and local level and contribute to wider UK and international goals".

14. Several contributors noted the next opportunity to legislate on air quality could be years away, emphasising the need to “get it right” and “make it as strong as possible”.

15. Notwithstanding their support for the general principles of the Bill, the majority of contributors called for it to be more ambitious, given the burden of air pollution and the urgent need to address it.

Health impacts and inequalities

16. Contributors highlighted the health impacts of air pollution, including on babies, children and young people. Healthy Air Cymru said:

“Air pollution is the biggest environmental threat to public health, second only to smoking. At a cost of £1bn per year to our NHS, air pollution is draining our resources, straining our health system and cutting short almost 2000 lives a year in Wales. It is a public health crisis”.

17. The Royal College of Paediatrics and Child Health said “air pollution is a clearly modifiable and avoidable cause of morbidity and mortality and as such, action can and should be taken to reduce or remove this harm”.

18. Several contributors explained air pollution further drives health inequalities, with those in the most deprived communities experiencing the worst air quality. Friends of the Earth (‘FoE’) asserted, “failure to address [air pollution] adequately betrays the most vulnerable in our society who often have done least to contribute to the problem”.

Environmental impacts

19. Contributors highlighted the impact of air pollution on the natural environment. According to Healthy Air Cymru and others, nitrogen dioxide (NO₂) and nitrogen oxides (NO_x) damage crops and contribute to climate change, while high ozone levels can affect the growth of plants and reduce crop yields.

Active travel

20. The majority of contributors emphasised the key role of **active travel** in tackling air pollution from transport. Christine Boston, Sustrans Cymru, said:

“we know that transport is a major contributor to poor air quality. It’s the largest source of nitrogen oxides in Wales, and

road traffic is a major source of carbon emissions as well. For us in particular we're disappointed that there isn't a greater focus on active travel as part of the solution. We think there are opportunities to build that into the [Bill]".

21. Living Streets referred to active travel as "the solution to air pollution and to cleaner air". Professor Enda Hayes told the Committee, "when you're looking at solutions, particularly for transport, active travel is essential".

22. The Cross Party Group on the Active Travel Act ('CPGATA') asserted that, for the Bill to be effective, it must include additional measures to address transport emissions. It called for the Bill to be used "to rectify the shortcomings in the Active Travel Act".

Agriculture emissions

23. WEL and CIEH expressed disappointment that the Bill does not include measures to reduce **agriculture emissions**. CIEH said:

"overwhelming evidence exists that agricultural activity plays a significant role with respect to the quality of the air we believe in myriad ways. Therefore, it is disappointing that there is little to no reference made to this fact and the need to introduce regulations within this sector as part of a holistic strategy to tackle air pollution...by failing to more explicitly address the role of agriculture in air pollution the Welsh Government are passing up a golden opportunity to achieve positive outcomes in tackling air pollution and promoting better public health".

24. WEL called for "an agriculture section be added to the Bill".

Approach to drafting

25. Joseph Carter (Asthma and Lung UK), Healthy Air Cymru and others, questioned the approach taken to drafting the Bill. Joseph Carter said:

"Like in many Bills that are coming through the Senedd, we would, I think, all aspire to have them as good-quality, stand-alone Welsh pieces of legislation that are starting to build a Welsh body of law. And we wanted that with this Bill as well. This would be the foundations of what air quality legislation should look like here in Wales, set by this Senedd, so that our

lawyers could get behind. But what we actually have instead, in large parts of this Bill—and this is a good example of this—is this Bill simply seems to be amending existing pre-devolution legislation, so predominantly the Environment Act 1995 and the Clean Air Act 1992 [sic], and, to a lesser extent, the more recent UK Environment Act 2021, rather than doing things in Wales.”

26. In commenting on the national air quality strategy provisions, Healthy Air Cymru stated:

“The Bill attempts to amend the Environment Act 1995 (section 80) in order to state that the powers to make a ‘national air quality strategy’ in Wales would now rest with Welsh Ministers at the Senedd, rather than a Secretary of State and the UK Parliament. This provision was made possible by the UK Environment Act 2021 amending the same section to specify that the UK Government would use this power to make a national air quality strategy.

This seems a very unusual way to draft a Bill and we are concerned about unforeseen consequences. We would therefore like to see this section redrafted so that it is clear that the Environment (Air Quality and Soundscapes) (Wales) Bill is granting Welsh Ministers clear power to develop a Clean Air strategy with a clear review process defined in the Bill.”

27. This suggests there is a lack of clarity among contributors that section 80 of the 1995 Act already applies in relation to Wales.

Evidence from the Minister

28. The Minister emphasised that the Bill should be considered in the broader context of the Welsh Government’s effort to improve air quality, rather than in isolation. She said:

“This is part of a suite of measures that we have in place, and it fills in a particular slot in that suite of measures. So, it’s not intended to be an all-encompassing, everything-in Bill.”

29. The Minister said she had “no principled objection” to using the Bill to strengthen provisions in the Active Travel Act. However, she said, “the parts of

active travel you'd be talking about in this Bill would be for air quality only, and so you have to be sure you don't narrow the active travel [Act] itself inadvertently by doing that”.

30. In its letter to the Minister, dated 25 May 2023, the Legislation, Justice and Constitution (‘LJC’) Committee sought clarification on why the Bill had not been used as an opportunity to update, improve and simplify elements of the Environment Act 1995 related to air quality in order to make the legislation more accessible. For example, by transposing sections 80 to 91 of the 1995 Act into the Bill and updating where necessary, which would address the concerns raised by contributors about the drafting of section 80 of the 1995 and section 9 of the Bill. The Minister told the LJC Committee, “restating a large portion of legislation while also making specific and relatively discreet amendments could be confusing and would amount to a partial retelling of the story of air quality”.

Our view

We heard compelling evidence about the need to accelerate action to tackle air pollution given its damaging effects on public health and the natural environment. For the majority of contributors, the Bill is an important step towards this.

The Bill has been highly anticipated, with many contributors having campaigned for over half a decade for a ‘Clean Air Act’ for Wales. While there was strong support for the general principles of the Bill, there was a clear sense that, as currently drafted, it fails to fully meet expectations. Although the Bill meets many of the commitments made by the Welsh Government in its Clean Air Plan, several key proposals included in the White Paper have not been taken forward, while others have been watered-down. While we do not doubt the underlying objective of the Bill, we are concerned that it lacks substance and ambition.

While we support the general principles of the Bill, we believe there are weaknesses that need to be addressed if it is to deliver its aim of improving air quality.

We acknowledge the Bill is part of a wider suite of measures to address air pollution. However, like contributors, we believe the Bill provides an opportunity to bring forward additional measures that will contribute to improving air quality, in particular measures aimed at reducing agricultural and vehicle emissions.

We expect the Minister to reflect on the suggested measures put forward by contributors about how the Bill could be used to accelerate action to reduce agricultural emissions.

We note the strong support among contributors to include measures in the Bill to encourage the use of active travel with a view to tackling vehicle emissions. We believe the promotion of active travel for the purpose of improving air quality would be a valuable addition to the Bill. We expect the Minister to reflect on this.

On the approach to drafting, our strong preference is for Senedd Bills to include standalone Welsh provisions rather than provisions that seek to amend existing UK Acts covering England and Wales where possible.

We are concerned that the provisions relating to the national air quality strategy, which amend Part IV of the Environment Act 1995, are not as clear as they could be. Part IV of the 1995 Act (sections 80 to 91) has already been amended by existing legislation. The evidence we received from contributors suggests they have found section 80 of the 1995 Act, and consequently section 9 of the Bill, unclear and confusing. We believe this could have been avoided if the Welsh Government had chosen to transpose the Welsh provisions in Part IV of the 1995 into the Bill. We recognise that doing so at this stage would require substantial redrafting of the Bill, which may not be desirable. Nevertheless, as a minimum, we expect the Minister to address the fact that the references to 'Secretary of State' in section 80 of the 1995 Act have resulted in confusion for the end user.

We are aware that the LJC Committee will be addressing matters relating to the approach to drafting of the Bill and accessibility of the Welsh law in their report.

On a wider matter relating to the scrutiny process, it is regrettable that information relating to air quality targets contained in the Minister's letter, dated 27 June, was not made available earlier in the process. Had this information been included in the Explanatory Memorandum, or provided by the Minister during her initial evidence session, it may have addressed contributors' concerns about the air quality target provisions.

Similarly, it would have been beneficial for the draft National Soundscapes Strategy, published on 26 June 2023, to have been made available at the start of the scrutiny process to help inform our views on the national soundscapes provisions.

Recommendations

Recommendation 1. The Committee recommends that the Senedd supports the general principles of the Bill.

Recommendation 2. The Minister should bring forward amendments at Stage 2 to include measures aimed at reducing air pollution from agricultural emissions and improving air quality.

Recommendation 3. The Minister should use the Bill to encourage active travel. As a minimum, we expect the Minister to bring forward amendments at Stage 2 to ensure the Bill provides for the promotion of active travel as a means of reducing air pollution from vehicle emissions and improving air quality.

Recommendation 4. The Minister should bring forward amendments at Stage 2 to address the fact that the references to ‘Secretary of State’ in section 80 of the 1995 Act have resulted in confusion for the end user of the legislation because, in relation to Wales, it is the Welsh Ministers that are under a duty to prepare and publish a national air quality strategy, and to review that strategy.

3. Air quality: National targets

Sections 1 and 2 - Air quality targets

31. Section 1 provides a power to the Welsh Ministers to make regulations that set long-term targets in respect of any matter relating to air quality in Wales. Any target set under these regulations must specify a standard to be achieved and a date by which that standard is to be achieved.

32. A target is a 'long-term target' if the specified date for that target is at least 10 years after the date on which the target is set.

33. Section 2 requires the Welsh Ministers to make regulations that set at least one target in respect of the annual mean level of PM_{2.5} in ambient air in Wales (referred to as a 'PM_{2.5} air quality target'). A PM_{2.5} air quality target may be a long-term target but it need not be.

34. Draft regulations setting a PM_{2.5} air quality target must be laid before the Senedd within three years of the Act receiving Royal Assent.

35. Regulations made under sections 1 and 2 are subject to approval by the Senedd.

Evidence from contributors

36. There was strong support in evidence for the introduction of statutory, long-term targets to help drive progress towards improving air quality. Contributors were broadly content for targets to be set in regulations but called for the Bill to be amended to ensure ambitious targets are set for a range of pollutants in the near term.

Duty to set target for other key pollutants

37. One of the key concerns raised by contributors is that the Bill gives Welsh Ministers a discretionary power to set targets (other than for PM_{2.5}) rather than placing a duty on them to do so. Healthy Air Cymru and others explained the Welsh Government's Clean Air Plan committed to focussing on a wide range of pollutants, including nitrogen dioxide (NO₂), nitrogen oxides (NO_x), particulate matter (PM_{2.5}/PM₁₀), ozone (O₃), sulphur dioxide (SO₂) and benzo[a]pyrene (B[a]P). They said, "These were all highlighted as priorities where action would be needed to reduce levels".

38. Contributors emphasised that, along with PM_{2.5}, nitrogen dioxide ('NO₂') is particularly damaging to public health. Friends of the Earth said NO₂ is “a serious health hazard and the current NO₂ legal annual Limit Value is still not being met across the whole of Wales”. It called for a new NO₂ target consistent with the latest World Health Organisation Air Quality Guidelines. Healthy Air Cymru and other contributors echoed this.

39. The majority of contributors challenged the Minister’s rationale that a duty to set targets for pollutants other than PM_{2.5} should not be included because of a lack of data. Professor Hayes asserted:

“we have been measuring air quality in Wales for decades and therefore have a very good understanding of spatial and temporal trends in concentrations and we must ensure that action paralysis doesn’t set in while data collection is being improved.”

40. Professor Gwyneth Davies said, “the World Health Organisation looked at over 500 papers, did several systematic reviews looking at all this evidence...I don't think we can say we need years and years' more data. I think we've got the data, so I think it's a missed opportunity just to focus on PM_{2.5}”.

41. Joseph Carter said, “The reason we talk about the World Health Organisation limits is that international experts put this together...this is international best-practice guidance. So, we know what we need to be aiming for”.

42. Healthy Air Cymru and others called for the Bill to be amended to place a duty on the Welsh Ministers to set targets for all pollutants included in the WHO AQG, namely: particulate matter (PM_{2.5} and PM₁₀), ozone (O₃), nitrogen dioxide (NO₂), sulphur dioxide (SO₂) and carbon monoxide (CO).

43. The Road Haulage Association ('RHA') referred to the WHO AQG targets as “stringent”. It raised concern that new policies/measures to support the delivery of targets, for example, trunk road charging schemes, could have negative economic impacts on small businesses. However, RHA added, “[we] support an approach where, within the spirit articulated by the WHO, an evidenced-based pathway with interim targets is developed to reduce air pollution over time. In this way, small businesses can be assured that their needs are supported”.

44. There were strong calls for a duty on the Welsh Ministers to set ammonia targets (which are not included in the WHO AQG), with NRW, WEL and the CIEH highlighting the impact of ammonia on ecosystem health and biodiversity.

45. Jenny Hawley, WEL explained:

“ammonia is really one of the pollutants where there's very little or no progress being made...a target is really urgently needed to be able to drive the action by Government and NRW and the industry...”

46. Jenny Hawley added that there are “quite substantial data sets and analysis” available that could be used as metrics for setting targets. Eirian Macdonald, NRW, echoed this saying, “We do have the data at the moment that we could set a realistic target”.

Short-term and interim targets

47. Under section 1, the Welsh Ministers can only set ‘long-term’ air quality targets. In contrast, a PM_{2.5} target set under section 2 can be either a long-term or short-term target. Dr Jenkins said, “It may be the case that it would be beneficial to introduce short-term as well as longer-term targets [for other pollutants] but this would not be possible under the legislation in its current form”. She suggested further consideration should be given to this.

48. Professor Enda Hayes said, “what we’ve learnt from 20 years of local air quality management is that, if you set a target 10 years into the future, you get inaction in those early stages and then you panic a little bit as you get towards the end. We have to think about how we learn from those lessons”. He suggested consideration should be given to setting interim targets to ensure on-going progress.

An ambitious and timely target for PM_{2.5}

49. There was strong support for the duty on the Welsh Ministers to set a target for PM_{2.5}. Friends of the Earth said a PM_{2.5} target is “much needed as for too long UK requirements on this most health damaging air pollutant have been far too low, and well below WHO AQC”. As already outlined, contributors called for an equivalent duty to set targets for other key pollutants.

50. The British Medical Association (‘BMA’) said the Bill should “contain an ambitious but binding commitment toward matching, or going further than, the WHO guideline for PM_{2.5} and specify a timescale for achieving this”. CIEH called for the Welsh Government to “urgently introduce ambitious air quality targets by committing to reducing the concentration of PM_{2.5} of 10µg/m³ by 2030, in order to protect public health”.

51. Professor Hayes said he had “issues with the timescale [for setting the PM_{2.5} target]”. He asserted the Welsh Government already has sufficient data/evidence to set a PM_{2.5} target consistent with the WHO AQG.

52. Professor Hayes said the Welsh Government should be “brave” and “accelerate this timescale and move it forward”. Other contributors, including Healthy Air Cymru, Friends of the Earth and WEL also called for a shorter timescale for setting the PM_{2.5} target. WEL noted the corresponding timescale in the UK Environment Act 2021 was 12 months and said “ideally” the Bill should mirror this.

Evidence from the Minister

53. In explaining why the power to set air quality targets is needed, the Minister said section 87 of the Environment Act 1995 provides “a very broad regulation making power”, which enables the Welsh Ministers to make provision in relation to air quality, which could include setting short-term or long-term targets. She said, “this Bill builds on those provisions by providing specific rather than general powers to set long-term targets, and, very specifically, sets up a duty to set a target in relation to PM_{2.5}”.

54. The Minister told the Committee targets would be set in regulations rather than included on the face of the Bill “to enable us to keep the regulations right up to date according to the latest guidelines...if they're on the face of the Bill, then obviously they're set in stone, pretty much, and you have to come back and do primary legislation to update them. So, it's with a view to futureproofing it”.

55. When asked why the Bill provides a discretionary power for the Welsh Ministers to set targets (other than for PM_{2.5}) rather than a duty, the Minister said there was currently insufficient data to determine what other targets are needed. She added:

“This is how I think of it. Why aren't we putting other targets than PM_{2.5}? Well, what for? What would you like us to put the targets in for? What particular pollutants would you like to include? And as soon as you get to that level of detail, you start to see the difficulty of saying, ‘The Welsh Government must set a target for—’ and fill in the blank. That's part of the problem. We don't know what the data will produce that tells us what we have to do.”

56. However, in her letter, dated 27 June, the Minister said work to develop targets has already started for the following pollutants: particulate matter (PM10), ozone, nitrogen dioxide, carbon monoxide, sulphur dioxide and ammonia.

57. On the matter of a target for ammonia, the Minister said the Welsh Government “absolutely will [set a target]”. However, she added, “I can't set a target for ammonia tomorrow—I have no idea what that should be... what this Bill is doing is giving us a process to do that...these targets are going to take a while, because the data is going to take a while”.

58. In commenting on the need for short-term or interim targets, the Ministers said:

“we already have existing targets, so we're not starting from zero. The issue is: do we need more interim targets than the existing ones? Will we divert work from the actual targets into trying to set the interim targets? Off the back of what exactly, I don't know, if we haven't got the data. So, there are considerations there. But also the committee really does need to take account of the fact that there are existing targets. They're not especially effective targets, but they do exist and we feed into them.”

59. The Minister's official told the Committee interim targets may be appropriate “depending on the actual target in question that you're trying to set and what its purpose is”. He emphasised the Welsh Ministers already have the power to set short term and/or interim targets.

60. The Minister said she was not in a position to provide indicative timescales for setting targets, other than for PM_{2.5}. However, in her letter, dated 27 June, she told the Committee, “work to scope and develop cases for change and potential target options for air pollutants (referred to above) is expected to be completed for Ministerial consideration by July 2025. It is likely Ministers will consider the advice and determine next steps during summer 2025”.

61. In explaining why three years is a suitable timescale for setting a PM_{2.5} target the Minister said “This time is necessary as there are a significant number of steps that need to be taken. This includes determining the scope of targets, analysing ambitious, affordable and feasible target options, proper engagement and consultation and full drafting of targets and the details of how they must be

assessed". She added the development of PM_{2.5} targets in England had taken the UK Government more than three years to complete.

Our view

The air quality target provisions in the Bill do not meet the expectations of contributors. There is no requirement on the Welsh Ministers to set long-term air quality targets (other than for PM_{2.5}), rather a wide discretionary power to enable them to set targets if/when they decide to do so. This fails to provide the certainty contributors are seeking that ambitious targets, consistent with the WHO AQG, will be set in the near term.

When taking executive powers, we would expect the Welsh Government to be able to justify the need for them and to explain how and when they will be used. It is not satisfactory that, in the case of the power in section 1, the Minister was initially unable or unwilling to provide this Committee with basic information about the types of targets that will be set or the timescales she is working towards. While the Minister provided this information latterly, it is unclear why it was not made available at the start of the scrutiny process, given its importance.

The Welsh Government committed to legislate for long-term targets in its Clean Air Plan for Wales. It is disappointing that, three years on, limited progress towards the development of targets has been made. We believe placing a duty on the Welsh Ministers to set targets for key pollutants will provide strong impetus for the Welsh Government to accelerate progress towards the development of targets, which has been lacking to date.

We note the Minister's assertion that she would not be able to meet a duty to set targets (other than for PM_{2.5}) in the near term due to a lack of data/evidence. It is difficult to reconcile this with the views of contributors that sufficient data/evidence is already available, including in the form of recommended guidelines in the WHO AQG.

Our strong preference is for air quality targets to be set for all pollutants covered by the WHO AQG, and ammonia, in the shortest time possible and for the Bill to reflect this. If the Minister is unwilling to commit to this, she should, as a minimum, set targets for nitrogen dioxide and ammonia, which are of key concern to contributors given their damaging impact on public health and the environment. In addition, the Minister should commit to address any

data/evidence gaps that may be a barrier to setting targets for all remaining pollutants covered in the WHO AQG as a priority.

As currently drafted, section 1 only enables the Welsh Ministers to set long-term targets. In practice, the date by which a target must be met could be years away. For example, the latest PM_{2.5} air quality targets for England must be achieved by 2040. We would expect any long-term targets to be accompanied by interim targets on a trajectory towards the final target date. This will help drive action in the early years and ensure continued progress towards delivery.

We note the Welsh Ministers already have general powers under section 87 of the Environment Act 1995 which would enable them to set short term and/or interim targets. However, such targets would not be subject to the same monitoring, reporting, and review arrangements as any long-term targets set under the Bill. We expect the Minister to bring forward a comprehensive set of long-term and interim targets. Given this, we believe the power in section 1 should be widened to enable the Welsh Ministers to set interim and/or short-term targets. We expect the Bill to be amended to reflect this.

The White Paper proposal was for the PM_{2.5} target to be set within two years of the Act receiving Royal Assent. It is unclear, therefore, why the Bill provides for a timescale of three years. As suggested by the Minister in evidence to us, if the Welsh Government is required to meet a timescale of three years, it will allocate resources on that basis. The Minister's letter, dated 27 June, confirms this, advising regulations to set the PM_{2.5} will not be laid until December 2026, which will be in the next Senedd term. This is unsatisfactory, lacks ambition and fails to reflect the urgency of the problem. We expect the Minister to bring forward the timescale for setting the PM_{2.5} target to two years, mirroring the White Paper proposal.

Recommendations

Recommendation 5. The Minister should bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to make regulations setting air quality targets for all pollutants covered by the World Health Organisation Air Quality Guidelines, and for ammonia. This should supplement, rather than replace, the discretionary power to set targets for any matter relating to air quality in Wales. Regulations must be made no later than three years after the day on which the Act receives Royal Assent. If the Minister is minded to accept this recommendation, we would be content for the Welsh Ministers to have a power to make regulations to amend the list of pollutants set out on the face of the Bill.

Recommendation 6. If the Minister is unwilling to accept Recommendation 5, she should:

- bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to make regulations setting air quality targets for nitrogen dioxide and ammonia. Regulations must be made no later than three years after the day on which the Act receives Royal Assent; and
- commit to address any data/evidence gaps that may be a barrier to setting targets for all remaining pollutants covered in the WHO AQG. She should also commit to report back to the Senedd on progress towards the development of targets annually after the Act receives Royal Assent.

Recommendation 7. The Minister should bring forward amendments at Stage 2 to provide that regulations to set a PM_{2.5} target must be made no later than two years after the day on which the Act receives Royal Assent.

Recommendation 8. The Minister should bring forward amendments at Stage 2 to provide that air quality targets set under the Bill may be long-term targets but need not be. The purpose of this is to enable the Welsh Ministers to set interim targets a trajectory towards a long-term target, and to set short-term targets for newly emerging pollutants.

Sections 3 and 4 – Target-setting process and effect of targets

62. Section 3 sets out the process the Welsh Ministers must follow before setting, amending or revoking a long-term air quality target and before setting or amending a PM_{2.5} air quality target. A PM_{2.5} air quality target cannot be revoked by regulations made under section 2.

63. Section 3(1) sets out that, before making regulations, the Welsh Ministers must seek advice from persons they consider to be independent and have relevant expertise; and have regard to scientific knowledge on air pollution.

64. The Welsh Ministers can only revoke or lower an existing target if they are satisfied that meeting the existing target would have no significant benefit compared with not meeting it or meeting a lower target; or because of changes in circumstances since the existing target was set or last amended the environmental, social, economic, or other costs of meeting it would be disproportionate to the benefits.

65. Before lowering or revoking a target, the Welsh Ministers must publish and lay before Senedd Cymru a statement that explains why they are satisfied that at least one of the grounds outlined above has been met.

66. Section 4 places the Welsh Ministers under a duty to ensure long-term targets and the PM_{2.5} targets are met.

Evidence from contributors

67. There were mixed views from contributors about the target setting provisions. Professor Hayes said, “Creating a process within the Bill to have a target-setting framework that is scientifically robust yet adaptable makes sense as it allows the Bill to be accommodating of new evidence and to be proactive in targeting emerging issues.” However, Dr Jenkins considered the duty in section 3(1) allows the Welsh Ministers “quite wide discretion”. She added, “there is nothing in [section 3] to support [the setting of ambitious targets]”. The majority of contributors shared this view.

68. In its Programme for Government, the Welsh Government committed to “introduce a Clean Air Act for Wales, consistent with World Health Organisation (WHO) guidelines”. While the Welsh Ministers must seek independent expert advice and have to regard scientific knowledge when setting targets, there is no explicit reference to the WHO AQG. This was a key concern for the majority of contributors. Christine Boston, Sustrans Cymru said, “If it isn’t explicit. I think there’s a risk that Ministers are more cautious, and we believe that this Bill has to be as ambitious as possible”. Joshua James, Living Streets told the Committee:

“...the WHO standards are widely accepted as what all countries should be aiming for, and not putting that in the actual legislative text of the Bill I think misses a trick. This is an Act to improve our environment and to improve our air quality. To not mention the global standard as part of the target-setting process is one of the main problems we have in terms of the ambition of the Bill.”

69. Healthy Air Cymru and others asserted, “It must be made clear in the Bill itself that the up to date WHO guidelines need to be the foundation of the target setting process, and that targets must be consistent with them”. Steve Manning (Welsh Local Government Association) suggested a duty to ‘have regard to’ the WHO AQG would be more appropriate. He added, “the practicability of achieving

them in some settings is outweighed by the prevailing background levels of pollutants that we have less control over”.

70. There were mixed views among contributors about the power for the Welsh Ministers to revoke or lower targets. While some contributors believed the power is necessary to provide “an element of flexibility” to adapt to changes in circumstance, others raised concern it could be used to lower targets where insufficient progress had been made.

Evidence from the Minister

71. In commenting on the approach to target setting, the Minister explained:

“Evidence on the effects of air pollutants is constantly emerging. Therefore, it is important to be able to respond to evolving circumstances. The Welsh Government is committed to evidence-based policy making and will consider the World Health Organisation air quality guidelines in developing target proposals, alongside independent expert advice, evidence and analysis on a range of factors. This includes the health benefits of reducing pollutant levels and the practical feasibility and economic viability of taking different actions which could deliver on potential targets.”

72. In addition to the requirements set out in section 3(1), the Minister told the Committee the Welsh Government has committed to “full and open public consultation on legislative proposals”.

73. The Minister acknowledged the concerns raised in evidence about the power to revoke or lower targets but emphasised that regulations to do this would be subject to Senedd approval.

Our view

We acknowledge the strong calls from contributors for the WHO AQG to be used as the foundation for Wales’ air quality targets in the Bill. Although the Minister has committed to consider the WHO AQG when setting targets, a future Minister in a different Welsh Government would be under no obligation to honour this commitment.

The Minister’s reluctance to include a reference to the WHO guidelines on the face of the Bill is, in part, due to concerns that these may be superseded by

advice/guidelines of another organisation. We are not convinced by this argument, particularly given the WHO has been in existence for over 70 years and is globally recognised and respected.

For the sake of clarity and certainty, we believe the Bill should include a requirement on the Welsh Ministers to 'have regard to' the WHO AQG when making regulations setting air quality targets. This would ensure the Welsh Ministers would have to consider, justify and demonstrate how they have considered the WHO AQG before setting any targets. At the same time, it would provide a degree of flexibility if the Welsh Ministers determine not to follow them, for example, due to disproportionate social or economic costs.

We welcome the Minister's commitment to consult before making regulations setting targets. However, as above, for the sake of clarity and certainty, we believe the Bill should include a requirement on the Welsh Ministers to do this.

While we acknowledge contributors' concerns about the power to revoke or lower targets, we are satisfied that sections 3(3) and 3(4), and the use of affirmative resolution procedure, provide sufficient safeguards to ensure it is exercised appropriately.

Recommendations

Recommendation 9. The Minister should bring forward amendments at Stage 2 to provide that the Welsh Ministers must have regard to the latest World Health Organisation Air Quality Guidelines when setting air quality targets.

Recommendation 10. The Minister should bring forward amendments at Stage 2 to include a requirement on the Welsh Ministers to consult relevant stakeholders before making regulations to set air quality targets. Statutory consultees should include (but need not be limited to) those listed in new section 87(7B) of the Environment Act 1995 (to be inserted by section 12 of the Bill).

Sections 5 and 6 – Reporting on and reviewing of targets

74. Section 5 sets out the reporting duties that are placed on Welsh Ministers in relation to long-term targets and PM_{2.5} air quality targets. Regulations that set targets must set a reporting date for those targets. On, or before the reporting date, the Welsh Ministers must lay and publish a statement setting out whether the target has been met, not met, or that this cannot be determined.

75. Section 5(4) provides that, where the target has not been met, the Welsh Ministers must within 12 months of laying the statement, lay a report explaining the reasons and the steps they have taken or will take to ensure the specified standards is achieved ‘as soon as reasonably practicable’.

76. Where the Welsh Ministers cannot determine whether a target has been met they must, within 6 months of laying the statement, lay a further statement setting out the required information.

77. Section 6 requires the Welsh Ministers to review targets within five years of the first target being set and every five years after the completion of the first review. In carrying out a review, the Welsh Ministers must seek advice from independent experts and have regard to scientific knowledge about air pollution.

78. Having completed a review, the Welsh Ministers must lay a statement setting out any steps they intend to take in consequence of the review.

Evidence from contributors

79. There was broad support for the provisions for reporting on targets. Dr Jenkins said section 5 provides “a clear and stringent framework for reporting on targets”.

80. Notwithstanding the above, several contributors called for sections 5(4) and 5(5) to be amended to ensure the Welsh Ministers take timely action when targets are not met. Healthy Air Cymru said:

“With almost 2,000 lives cut short every year due to air pollution, we worry that 12 months to publish a report setting out what the Welsh Government will do to correct air pollution exceedance is too long. We would like to see this reduced to 6 months, if not further.”

81. Friends of the Earth said, “Section 5(5) refers to the report needing to set out how the standard will be achieved ‘as soon as reasonably practicable’ – this should instead be framed as needing to be achieved for instance in the shortest time possible”.

82. Several contributors, including Professor Hayes, raised concern that the Bill does not provide a mechanism for on-going reporting of progress towards targets. Healthy Air Cymru and others called for a duty on the Welsh Ministers to report annually on progress.

83. There was broad support with the provisions for reviewing targets, including the five-year review period. Professor Hayes explained, “When we look at air quality data, you will get natural variations year on year, because of meteorological conditions...So you don’t want a shorter period than five years, because you need to be able to look at meaningful trends, and also action takes time”.

84. Healthy Air Cymru and others sought clarification on the routes available to citizens and organisations to seek legal redress in instances where air pollution limits are exceeded and/or targets are not met. WEL asserted the Bill “starkly highlights the environmental governance gap that exists in Wales”. It said “the future new governance body will have a key role to play in holding government to account in relation to air quality targets” and expressed disappointment about the “ongoing delays in bringing forward environmental governance legislation”. Dr Jenkins made a similar point, saying:

“Going forward it is very important that the Welsh Government bring forward proposals to set up an environmental body that will have the powers to hold it to account in relation to air quality targets under current national legislation (including EU retained law) as well as this new legislation.”

Evidence from the Minister

85. In commenting on the reporting and review requirements, the Minister said:

“I personally think that a reporting duty in the middle of the term, when whoever the Government is still has a chance to do something about it, is a very important thing. Reporting it five days before the election would clearly be much more problematic, right? I do think it matters where in the cycle it reports as well. So, we think we have struck in the Bill the right balance of reporting, both before the target is set, during the monitoring of the target, and then once we are saying whether we have or haven't met it”.

86. On the issue of legal redress, the Minister told the Committee, “all the public law remedies are available”. She added:

“What this Bill does is it puts the Welsh Ministers under a set of duties to do various things, and gives them a set of powers. So, the challenge would be by way of a judicial review to say that the Welsh Government had either not correctly performed its

duty, so it had made decisions that were outwith its duties, or it had not correctly exercised its powers.”

Our view

The purpose of the reporting provisions is to ensure the Welsh Ministers can be held to account for progress towards delivery of targets. This Committee has experienced first-hand the difficulties of effectively scrutinising progress towards the delivery of carbon emissions reduction targets/carbon budgets due to weaknesses in statutory reporting arrangements. We must learn lessons from this.

We are concerned that, as currently drafted, the Bill does not allow the Senedd sufficient opportunity to scrutinise the Welsh Ministers on progress towards air quality targets on an on-going basis. There are several reasons for this.

First, it will be a matter for the Welsh Ministers to specify a reporting date for air quality targets. In practice, this could be years after those targets have been set, leaving the Senedd with limited opportunity to scrutinise progress in any meaningful way during the intervening years. Second, while ‘retrospective scrutiny’, which takes place after the final target date, serves a purpose, it is of limited value when seeking to improve government effectiveness and outcomes. Finally, the Bill provides for the Welsh Ministers to make a statement to the Senedd every five years following the completion of a review of targets under section 6. While we believe a five-yearly cycle is reasonable for the purpose of reviewing the targets, we are concerned that such infrequent reporting would not allow the Senedd sufficient opportunity to conduct effective scrutiny of the progress made towards the delivery of targets.

We expect the Minister to revisit the reporting and review provisions with a view to ensuring the Senedd has sufficient opportunity to scrutinise progress towards targets on an on-going basis.

We agree with contributors that the timescale within which the Welsh Ministers must publish a report setting out why a target has not been met should be reduced from 12 to six months.

As referred to in evidence, the Bill serves to highlight the significant and unacceptable environmental governance gap that remains in Wales following EU exit. The only avenue available to citizens in Wales to seek legal redress for potential breaches of environmental law by the Welsh Government is Judicial

Review. The weaknesses of Judicial Review as an avenue to environmental justice have been well-rehearsed by the environmental sector and others: the grounds for seeking Judicial Review are narrow; the process is challenging; and it can be lengthy and very costly. There is a pressing need for more accessible and affordable avenues for citizens in Wales to be able to enforce their rights and hold the Welsh Government to account for breaches of environmental law.

Since the start of the Sixth Senedd, we have been calling for the Welsh Government to prioritise bringing forward a Bill to establish a Welsh environmental governance body. The failure of the Welsh Government to do so means that citizens in Wales have less access to environmental justice than they had before EU exit and are at a disadvantage compared to citizens in other parts of the UK, where governance bodies have already been in place for some time. We reiterate our calls for the Welsh Government to prioritise an environmental governance Bill.

We are broadly content with the review provisions in section 6. However, in line with Recommendation 9, we believe, when reviewing targets, the Welsh Ministers must have regard to the latest World Health Organisation Air Quality Guidelines. We expect section 6 to be amended to reflect this.

Recommendations

Recommendation 11. The Minister should bring forward amendments at Stage 2 to ensure the Bill provides for regular reporting to the Senedd on progress towards the delivery of air quality targets. This could be achieved by including a duty on the Welsh Ministers to report annually to the Senedd on progress. This should complement rather than replace the reporting and review provisions set out in sections 5 and 6.

Recommendation 12. The Minister should bring forward amendments at Stage 2 to ensure the Welsh Ministers must have regard to the latest World Health Organisation Air Quality Guidelines when reviewing targets in accordance with section 6.

Section 7 – Monitoring progress towards meeting targets

87. Section 7 requires the Welsh Ministers to make arrangements for obtaining data to monitor progress towards meeting the air quality targets, and to publish that data.

Evidence from contributors

88. There was broad support for the duty under section 7. However, several contributors emphasised the need for improvements in current air quality monitoring. According to Healthy Air Cymru and others, the current approach of monitoring national and local air pollution is “inadequate, creates confusion for the public and gives a false picture of the air pollution challenges that Wales faces”. Professor Hayes explained the current approach, which is based on monitoring compliance, would need to change to support proactive air quality management. Joseph Carter emphasised the importance of developing a national monitoring network, noting the Welsh Government has already committed to do this.

89. Local authority representatives suggested a change in approach to monitoring and/or additional monitoring would need to be met with adequate funding, pointing to existing capacity and resource constraints.

90. The Electric Vehicle Association said the ongoing publication of data will be beneficial in understanding the changing impacts of travel in the context of the proposed UK ban on new conventional petrol and diesel cars. It added that data must be publicly available to allow “analysis against other datasets including deprivation and other social indicators”.

Evidence from the Minister

91. The Minister explained that monitoring and data collection at a local and national level is currently undertaken for a specific purpose. She emphasised the need to enhanced monitoring capabilities to enable the Welsh Government to collect the right type of data to set air quality targets and to monitor progress towards those targets. She said, “we don’t have great data for Wales” and “we’re starting from a very low base of the right kind of data—let’s just be clear—so we’ll be building it up”.

92. The Minister told the Committee the Welsh Government would be “rolling out an air quality monitoring system right across Wales that actually is a higher quality and gives us a completely different set of data [than presently]”.

Our view

We support the duty on the Welsh Ministers to make arrangements for obtaining air quality data to enable monitoring of progress towards the targets

set under the Bill. The Minister told us this would allow for the collection of data that is needed to set air quality targets. We have already recommended earlier in this report that the Minister makes it a priority to address any data/evidence gaps that may be a barrier to setting targets.

We heard that existing air quality monitoring capabilities will need to be extended and enhanced in order to enable monitoring of progress towards air quality targets. We would welcome clarification from the Minister on the timescale she is working towards for this, and further detail on how data collection will be improved.

In its Clean Air Plan, the Welsh Government committed to “implementing a national air pollution monitoring and assessment service by December 2022”. We are concerned that there has been a delay in this timescale, with no sign of the service as yet. We would welcome an update from the Minister on the development of the service, including a revised timetable for implementation.

Recommendations

Recommendation 13. The Minister should:

- clarify the timescale she is working towards for extending and enhancing existing air quality monitoring capabilities;
- provide further details on how data collection will be improved for the purpose of setting and monitoring progress towards air quality targets; and
- provide an update on progress towards the development of the national air pollution monitoring and assessment service for Wales, including a revised timetable for implementation of the service.

4. Part 1 – Air quality: Other provisions

Promoting awareness (Section 8)

93. Section 8 places a duty on the Welsh Ministers to take steps to promote awareness of the risks to human health and the natural environment caused by air pollution, and ways of reducing or limiting air pollution.

Evidence from contributors

94. There was broad support for the duty to promote awareness, with contributors highlighting the importance of improving understanding about the causes of air pollution, its health impacts, and ways to reduce air pollution.

95. Although he supported the duty, Professor Hayes referred to section 8 as “underdeveloped”. He explained that “compliance with the Bill as it currently stands may be limited to putting information on websites and promoting occasional events such as the National Clean Air Day. We already do this, and it is proven to have a limited impact on awareness and action”. Professor Hayes referred to UWE’s Air Quality Management Resource Centre’s 15 point action plan, which “creates a more inclusive approach to public engagement and a greater impact in encouraging behaviour change”. He suggested this could be used to inform the approach taken in Wales.

96. Healthy Air Cymru and others called for targeted information campaigns on the environmental and health impacts of air pollution and domestic burning, as well as providing advice and support to suppliers and households on how to reduce the moisture content of wood. Friends of the Earth and Living Streets emphasised the need to promote awareness of behaviour-change solutions, in particular, modal shift to active travel and public transport.

97. The Welsh NHS Confederation suggested the duty could be extended to public bodies that fall under the Well-being of Future Generations (Wales) Act 2015 and Socio-Economic Duty, and the public authorities listed in the Environment (Wales) Act 2016.

Evidence from the Minister

98. The Committee asked the Minister whether she had considered including further detail in section 8 about the steps the Welsh Ministers would be expected to take when implementing the duty. She said the Welsh Government will

“publish a delivery plan to implement the duty” (as outlined in the Explanatory Memorandum). The plan will be developed with stakeholders “to ensure it is effective and focuses efforts in the right areas”.

99. The Minister explained “the Bill does not include specific arrangements for monitoring compliance or effectiveness [of the duty] because this provision has intentionally been broadly drafted to avoid limiting the ways in which we can promote awareness of air pollution”. She added monitoring arrangements would be development with stakeholders. In addition, “If in future the delivery plan is included within Welsh Government air quality strategies, the actions would be subject to the same scrutiny, monitoring and evaluation as the wider plan”.

100. The Minister told the Committee she would “absolutely” consider extending the duty to promote awareness about air pollution to the wider public sector.

Our view

We support the duty on the Welsh Ministers to take steps to promote awareness about air pollution.

When placing duties on the Welsh Ministers it is important to ensure robust mechanisms are in place to monitor compliance and effectiveness. We believe, therefore, the duty in section 8 should be accompanied by a requirement on the Welsh Ministers to report annually to the Senedd on steps taken to promote awareness about air pollution and/or progress towards actions set out in the delivery plan.

Recommendations

Recommendation 14. The Minister should bring forward amendments at Stage 2 placing a duty on the Welsh Ministers to report annually to the Senedd on the steps taken to promote awareness of air pollution and progress towards actions set out in the delivery plan. We would be content for this report to be part of the wider annual report on progress towards delivery of the national air quality strategy (see Recommendation 15).

National air quality strategy (Sections 9 to 11)

101. Under section 80 of the Environment Act 1995 (‘the 1995 Act’), the Welsh Ministers are required to publish a national air quality strategy (‘the national

strategy'). The national strategy must be reviewed every five years, with the next review due to be undertaken in May 2023 (and every five years thereafter).

102. Section 9 amends section 80 of the 1995 Act to provide a power for the Welsh Ministers to make regulations to change the review period for the national strategy. Regulations are subject to approval by Senedd Cymru.

103. Section 10 amends section 80 of the 1995 Act to disapply existing consultation and publication requirements in respect of the national strategy in relation to Wales and replaces them with new requirements. Under the new requirements, when reviewing the national strategy, the Welsh Ministers must consult Natural Resources Wales, local authorities, Public Health Wales, local health boards and the public.

104. Section 11 amends section 81 of the 1995 Act to require local authorities and relevant Welsh public authorities to have regard to the policies in the national strategy when exercising functions that could affect air quality.

105. A person is a 'relevant Welsh public authority' if they have been designated as such by regulations made by the Welsh Ministers. The Welsh Ministers may only designate a person if they meet the definition of 'devolved Welsh authority' in section 157A(1)(a) of the Government of Wales Act 2006. Before designating a person as a 'relevant Welsh public authority', the Welsh Ministers must consult that person and any other persons they consider appropriate.

106. Section 11 also amends section 88 of the 1995 Act to provide the Welsh Ministers with power to issue guidance to relevant Welsh public authorities in relation to the discharge of any duties placed on them by virtue of section 88 or regulations made under Part 4 of the 1995 Act. Welsh public authorities must have regard to that guidance.

Evidence from contributors

107. While contributors were broadly content with the power in section 9 for the Welsh Ministers to change the review period for the national strategy, concern was raised about the risk of arbitrary changes and the potential for a prolonged review period. There was general consensus that the powers should only be exercised in "exceptional circumstances".

108. Contributors were content with the new consultation requirements set out in section 10. However, the Welsh NHS Confederation recommended other NHS organisations (for example, the Welsh Ambulance Service NHS Trust), the Office of

the Future Generation Commissioner and Public Health Boards be listed as statutory consultees.

109. Friends of the Earth referred to the duty to have regard to the strategy in section 11 as “unnecessarily weak” and called for it to be strengthened to ensure relevant Welsh public authorities exercise relevant functions in a way that is compatible with policies in the national strategy. A similar view was expressed by Healthy Air Cymru and others.

Evidence from the Minister

110. When asked whether the Minister would commit to reporting annually to the Senedd on progress towards implementation of the national air quality strategy, she said she was “Very keen to have reporting arrangements in place...that give meaningful information to people about where we are and what the direction of travel is”. The Minister explained current arrangements are for five yearly progress reports, in line with the review cycle for the strategy.

111. The Minister said the purpose of the duty in section 11 is to ensure that “[the national air quality strategy is] taken into account at a corporate level, so that the policy-making function of the local authority in its entirety takes account of the Clean Air Act, as we hope it will be by then, and not just the environmental health department, and so that it's not seen as a narrow, geeky thing that the local authority has to do, but part of its broad duty to the public”.

112. When asked how the Welsh Government will monitor compliance with the duty, the Minister said, “we'll obviously review the national strategy and the local authorities' part in that, and as part of that we'll be able to see whether they're compliant or not and take appropriate actions”.

Our view

As outlined earlier, under the Environment Act 1995, the Welsh Ministers have a duty to prepare and publish a national air quality strategy. However, there is no duty to report to the Senedd on progress towards delivery of the national strategy. The Minister has indicated she intends to report on progress every five years, in line with the review cycle for the national strategy. However, this is not a statutory requirement as there are no provisions in either the 1995 Act or the Bill which expressly provide for this. Furthermore, we are concerned that five-yearly reporting would not allow the Senedd sufficient opportunity to conduct effective scrutiny of the progress being made. We expect the Minister to bring

forward amendments at Stage 2 to ensure the Bill includes a requirement on the Welsh Ministers to report annually to the Senedd on progress made towards delivering the national strategy.

While we acknowledge the concerns raised by contributors about section 9 (Power to change review period for strategy) we are satisfied that the use of the affirmative resolution procedure provides sufficient safeguards to ensure the power is exercised appropriately.

We are content with section 10 (Consultation on review of strategy). However, we believe the Minister should consider extending the list of statutory consultees, as suggested in evidence to us.

We note the calls from contributors for section 11 (Duty to have regard to strategy) to be strengthened. However, we are satisfied that 'have regard to' is a widely recognised and well-understood legal term. In effect, it will ensure authorities will have to consider, justify and demonstrate how they have considered the national strategy when carrying out relevant functions. We believe the accompanying statutory guidance will be key to supporting authorities in carrying out their duty effectively. We expect the guidance to be developed in consultation with authorities and wider stakeholders.

As outlined earlier in this report, when placing statutory duties on public authorities it is important to ensure robust mechanisms are in place to monitor compliance and effectiveness. In the case of the duty in section 11, the Bill does not provide for this. We note the Minister's suggestion that compliance with the duty will be assessed as part of the five-yearly review of the national strategy. Given that this is not expressly mentioned on the face of the Bill, we would welcome a more detailed explanation of how this will work in practice.

Finally, we are aware of the capacity and resource constraints facing local authorities and the wider public sector. We are concerned the Minister has been unable to provide an assessment of the cost to authorities of meeting the duty (as outlined in the Explanatory Memorandum). We would welcome assurance from the Minister that any additional costs to authorities arising from the duty will be met with an appropriate level of funding.

Recommendations

Recommendation 15. The Minister should bring forward amendments at Stage 2 to include a duty on the Welsh Ministers to report annually to the Senedd on progress towards the delivery of the national air quality strategy.

Recommendation 16. The Minister should provide further details of how the Welsh Government will monitor and report on compliance with the duty on local authorities and relevant Welsh public authorities to have regard to the national air quality strategy.

Recommendation 17. The Minister should commit to ensuring that any additional costs to local authorities and relevant Welsh public authorities arising from the duty to have regard to the national air quality strategy will be met with an appropriate level of funding.

Air quality regulations (Section 12)

113. Section 87 of the 1995 Act sets out consultation requirements in relation to regulations made for the purpose of Part 4 of that Act. Section 12 of the Bill disapplies those requirements in relation to Wales and replaces them with new requirements. These new requirements provide that before making regulations, the Welsh Ministers must consult Natural Resources Wales, local authorities, Public Health Wales, local health boards, and the public.

Evidence from contributors

114. Contributors were content with section 12. However, the Welsh NHS Confederation recommended other NHS organisations (for example, the Welsh Ambulance Service NHS Trust), the Office of the Future Generations Commissioner and Public Service Boards be listed as statutory consultees.

Our view

We are content with section 12. However, we believe the Minister should consider extending the list of statutory consultees, as suggested in evidence to us.

Recommendations

Recommendation 18. The Minister should consider bringing forward amendments at Stage 2 to ensure other NHS organisations, the Office of the

Future Generations Commissioner and Public Service Boards are listed as statutory consultees when reviewing the national air quality strategy.

Local air quality management (Sections 13 to 15)

115. Under Part VI of the 1995 Act, local authorities tackle air quality issues at a local level through the Local Air Quality Management ('LAQM') process. Local authorities are required 'from time to time' to review and assess air quality. Where air quality is found to be at risk of exceeding pollutant objectives, an area is designated as an Air Quality Management Area ('AQMA').

116. Upon designating an AQMA, the local authority must develop an Air Quality Action Plan ('AQAP'). The AQAP must set out proposed measures the authority will take 'in pursuit' of the achievement of air quality standards and objectives in the AQMA, including timescales for implementation.

117. Sections 13 to 14 amend sections 82 and 83 of the 1995 Act, aiming to strengthen the current LAQM process by:

- requiring every local authority to conduct an annual air quality review (section 13);
- requiring a local authority to send a copy of an AQAP to the Welsh Ministers for approval. The action plan does not take effect unless it is approved by the Welsh Ministers;
- providing for an AQAP to set out how the local authority will exercise its functions 'to secure' that air quality standards and objectives are achieved in the AQMA, and to specify, in relation to each standard and objective, a date by which the local authority will aim to achieve that standard or objective (referred to as 'a projected compliance date');
- providing for a local authority to revise an action plan at any time, but requiring them to revise an action plan if it considers further measures are needed to achieve the air quality standards and objectives set out in the AQAP by the projected compliance date, or to maintain those standards and objectives. The revisions do not take effect unless approved by the Welsh Ministers.

118. Section 15 amends section 85 of the 1995 Act by widening the Welsh Ministers' powers of direction to include instances where a local authority has

failed to carry out a measure in the action plan or has not achieved an air quality standard or objective by the specified date.

Evidence from contributors

119. There was widespread support for the provisions in relation to local air quality management ('LAQM') which, according to contributors, will help address current weaknesses. Public Health Wales asserted:

"...local air pollution monitoring processes and the Local Air Quality Management framework needs reform. [PHW] is keen to see this progress as quickly as possible and also to see the new process associated with more significant and robust action to address pollution than has been seen to date".

120. Professor Hayes told the Committee, "The LAQM process is effective and efficient at identifying and diagnosing hotspots but not effective at resolving them. Clarifying and strengthening LAQM legislation to ensure the regime operates more effectively is essential".

121. Notwithstanding the above, contributors suggested further changes are needed to ensure LAQM is preventative, proactive and focussed on achieving the best air quality to protect public health, as opposed to 'hotspot management' and being compliance-driven. Professor Hayes explained:

"The Local Air Quality Management process requires Action Plans (mitigation) where Air Quality Management Areas exists, but these plans are not created if there is compliance with the current Air Quality Objectives. There appears to be a policy disconnect within the Bill in that there are no local/regional mechanisms to support a preventative approach."

122. He suggested a requirement on authorities to develop local/regional air quality strategies would be an appropriate way to address this.

123. In commenting on the requirement for AQAPs to include projected compliance dates, Tom Price, Swansea Council, said, "It needs to be accepted that there must be flexibility on an end date for measures outside of our control".

124. Several contributors emphasised the need to ensure local authorities have adequate financial support to deliver air quality improvements. Representatives

from local government reported constraints on resource and capacity, as well as difficulties in recruiting staff with suitable expertise.

Evidence from the Minister

125. The Minister explained that, in line with current statutory guidance, local authorities submit annual progress reports on air quality. She added, “we’re just basically formalising that so it’s very clear to the local authorities [that they are required to review air quality annually]”. The Minister said there would be no additional resource implications for authorities arising from the annual review requirement because “they have to do it annually already”.

126. In commenting on the need to strengthen current requirements in relation to AQAPs, the Minister said:

“It’s a bit of a mishmash and it’s not as effective as it could be...We want a system that, where air quality standards are exceeded, there’s a swift action plan put in place to do something about it...We want this to be effective, and that the communities affected are aware that there’s a plan in place and what the timescale for dealing with the breach, if you like, is.”

127. She added:

“At the moment, local authorities are required to develop actions and give timescales for implementation. So, we’re building on that process to require local authorities to provide a projected compliance date...we’ve got two authorities currently developing action plans to test the compliance date proposals, and then we’ll get some feedback from that, as the Bill goes through, to make sure that it’s a practical solution.”

128. The Minister explained a Local Air Quality Management Support Fund had been established to help meet any additional costs arising from the requirement to set projected compliance dates, for example, modelling assessments.

129. The Minister said, once projected compliance dates are agreed, “we can ensure that [local authorities have] got the support they need to be able to comply by the date”.

Our view

We welcome the LAQM provisions as a means of clarifying and strengthening the existing LAQM regime, which we heard is not as effective as it should be. In particular, we believe the focus on ‘securing’ compliance with air quality standards and objectives (rather than ‘pursuing’ compliance) and the agreement of projected compliance dates will help ensure authorities give sufficient priority to addressing non-compliance.

Notwithstanding the above, we recognise that, to secure compliance, authorities must have sufficient capacity and resource to effectively deliver air quality improvement measures. We welcome the additional funding that has been made available to authorities through the LAQM Support Fund, which the Minister told us could also be used to support the delivery of local air quality improvements. With the anticipated move to more stringent standards and objectives, it is possible that the number of AQMAs will increase over the coming years. We expect the Minister to keep under review the budget allocation for the LAQM Support Fund.

Local authorities must strive towards ensuring air pollution levels are as low as reasonably practicable across the whole of their area. The existing LAQM regime is not designed for this. We believe local/regional air quality strategies have a key role to play in meeting the Welsh Government’s aim of LAQM that is preventative, proactive and public health focussed. Currently, these strategies are optional (under Welsh Government guidance) and it is not clear whether any are in place. We believe the Bill could be used as an opportunity to place local/regional strategies on a statutory footing. These strategies would enable authorities to clearly demonstrate how they are meeting their duty under section 11. If the Minister is not willing to do this, we expect the current LAQM guidance to be strengthened to make clear there is an expectation on authorities to develop local/regional strategies.

Recommendations

Recommendation 19. The Minister should commit to keeping the budget allocation for the newly established Local Air Quality Management Support Fund under review.

Recommendation 20. The Minister should amend the Bill:

- to place a duty on local authorities to prepare and publish an air quality strategy setting out the steps they will take to improve air quality across their area; and
- to enable two or more neighbouring authorities to jointly prepare a strategy to meet the duty outlined above.

Recommendation 21. If the Minister is unwilling to accept Recommendation 20, she should commit to strengthening Welsh Government guidance on LAQM to set a strong expectation for local authorities to develop local/regional air quality strategies.

Smoke control (Sections 16 to 18)

130. Part 3 of the Clean Air Act 1993 ('the 1993 Act') makes provision for the control and prevention of air pollution by smoke and other related emissions. It does this in part by making provision for the designation of smoke control areas ('SCAs'). Within a SCA, it is an offence to emit smoke from a chimney of a building (including domestic, residential or industrial premises) unless a fuel has been authorised for use or an appliance has been exempted for use in a SCA.

131. Section 16 of the Bill replaces the current criminal offence of emitting smoke from a chimney in a SCA with a civil sanctions regime. This includes the removal of the current statutory defence.

132. Section 17 places a requirement on local authorities to have regard to any guidance published by the Welsh Ministers about the exercise of authorities' functions under Part 3 of the 1993 Act.

133. Section 18 introduces Schedule 1, which makes further provision in relation to smoke control to allow for the civil sanctions regime contained in the Schedule to apply in relation to Wales.

134. The White Paper for the Bill included proposals to strengthen existing smoke control legislation by mandating use of Smoke Control Orders in defined population areas; extending smoke control legislation to include outdoor burning; and requiring local authorities to review Smoke Control Areas on a regular basis. The Bill does not include provision in relation to these.

Evidence from contributors

135. There was general support for replacing the current criminal offence with a civil sanctions regime in order to address barriers to enforcement.

136. Tom Price (Welsh Local Government Association) said, in the case of Swansea City Council, “we haven’t taken action under a Smoke Control Area for some time”. He acknowledged the Welsh Government’s intention is for an ‘advice-led approach’ to ensuring compliance before resorting to enforcement action. However, he suggested both would have resource implications for authorities. Other local government representatives echoed this.

137. Public Health Wales and other health sector representatives cautioned that a ‘punitive approach’ to smoke control could increase existing socio-economic and health inequalities. This was based on the view that the current energy price crisis “could lead people to seek other, cheaper sources of fuel and that domestic burning could become more common”. However, CIEH suggested the number of households relying on solid fuels as a source of energy/heating are low.

138. Many contributors called for smoke control legislation to be strengthened further. They sought clarification on whether and how the Welsh Government intends to expand Smoke Control Areas, noting the White Paper proposal to mandate Smoke Control Orders in defined population areas has not been taken forward in the Bill. Healthy Air Cymru and others recommended “roll out [of] smoke control restrictions across the whole nation”, with “exemptions for people who live in very remote areas”. A similar view was expressed by the CIEH who called for “regulations on domestic solid fuel burning in urban areas with on-grid heating alternatives”.

139. Alongside the White Paper on the Bill, the Welsh Government consulted on proposals to reduce emissions from domestic burning of solid fuels. This included: phasing out sale of traditional house coal for domestic burning; prohibiting the sale of wet wood for domestic burning; and introducing standards to all manufactured mineral and biomass solid fuels. Many contributors expressed disappointment that the Bill does not include provisions to give effect to these.

Evidence from the Minister

140. The Minister referred to the current criminal sanction regime in relation to emissions of smoke in a Smoke Control Area as “draconian”. She explained:

“the prosecution process is burdensome, lengthy and expensive, and, frankly, very rarely used. The resources required by the local authority to bring a prosecution are really often not in the best interests of the local authority, because it just takes such an amount of time. The challenge of gathering evidence is also a deterrent.”

141. The Minister said the change to a civil sanctions regime “will facilitate quicker intervention by local authorities to tackle smoke emitted within their control areas”. The Welsh Government would be advocating “an advice-led approach”, which would allow authorities “to immediately address the issue, provide guidance to households and businesses about why they would be in breach if they carried on with the practice and how to adopt better burning practice”.

142. On mandating Smoke Control Orders in defined population areas, the Minister said, the Welsh Ministers currently have powers to direct authorities to create Smoke Control Areas. She added:

“In principle, this could allow the Welsh Ministers to direct a local authority in relation to any densely populated, urban area where air pollution is being caused by smoke, on a case-by-case basis. Welsh Ministers work with local authorities to ensure any necessary smoke control areas are established by them under section 18. Powers of direction would only be used as a last resort.”

143. The Minister subsequently told the Committee that mandating local authorities to create Smoke Control Areas “wouldn't be appropriate” and “I'd be reluctant to strengthen the duty of the Welsh Government to intervene in what I would consider to be a local decision-making process”.

144. The Minister explained the requirement for local authorities to have regard to guidance about the exercise of their functions under Part 3 of the 1993 Act “replaces our original ‘requirement to review’ proposal and will be developed with stakeholders and periodically reviewed and updated”. She added, the guidance will encourage authorities “to consider smoke control areas in their overall approach to air quality management, including whether to create new smoke control areas if they're needed”.

145. On outdoor burning, the Minister said, the consultation responses to the White Paper were “very mixed indeed and suggested that a lot more work is

required before we legislate". She added, "we're not ready yet; we wouldn't have the proper evidence base to be able to say what the right thing to do is. We are certainly keeping it under active consideration and working with a range of stakeholders on what the next steps might be".

146. The Minister's official said the Welsh Government's response to the consultation, including next steps, would be published in the summer.

Our view

The Welsh Government must go further and faster to reduce smoke emissions, in particular from domestic burning of solid fuels. While the Bill includes some useful additions to the existing smoke control legislation, we would have expected to see stronger measures to tackle emissions, given the extent of the problem.

We are content with the move to a civil sanctions regime for smoke control offences, which we believe is more proportionate than the existing criminal sanctions regime. We note the Minister's assertion that a civil sanctions regime will enable local authorities to intervene more quickly when an offence is committed. While this may be case, we recognise that authorities' ability to monitor and enforce compliance with Smoke Control Orders will largely depend on capacity and resource.

Given the extent of the problem of air pollution from smoke emissions, it is unclear why there are so few Smoke Control Areas in Wales. We are concerned there may be a reluctance among authorities to declare Smoke Control Areas, either due to capacity and resource constraints, or for some other reason.

The power for authorities to declare Smoke Control Areas is contained in section 18 of the Clean Air Act 1993. We are concerned that this section is not clear as to the circumstances where an authority should declare a Smoke Control Area, which may deter authorities from exercising this power. We believe the Bill provides an opportunity to address this by amending section 18 of the 1993 Act to outline the circumstances where an authority should declare a Smoke Control Area. If the Minister is unwilling to commit to this, we expect her to outline the circumstances in guidance issued under the Bill (see below).

We note that although section 17 of the Bill (Guidance for local authorities in relation to smoke control areas) requires local authorities to have regard to any guidance that may be published by the Welsh Ministers, there is no

requirement on the Welsh Ministers to publish such guidance, and there is no pre-existing requirement in Part III of the 1993 Act. While the Minister has made a commitment to publish guidance, a future Minister in a different Welsh Government would be under no obligation to honour that commitment. For the sake and clarity and certainty, we believe the Bill should include a duty on the Welsh Ministers to publish guidance to authorities on the exercise of their functions under Part III of the 1993 Act.

Both the White Paper for the Bill and the consultation on reducing emissions from domestic burning included a proposal to mandate the application of Smoke Control Orders. Despite support for the proposals in the consultation on the White Paper, the Bill does not make provision for this. We are concerned the Welsh Government's response to the White Paper and the Minister's evidence to us provide different accounts of why the proposal has not been taken forward. This inconsistency in messaging is unhelpful.

We acknowledge the views of contributors that smoke control coverage could be extended without adversely impacting households who rely on solid fuels for heating and cooking. We believe the Minister should reflect on this evidence ahead of Stage 2.

We welcome the Welsh Government's commitment to bring forward a series of measures to reduce emissions from domestic burning outside of smoke control legislation. However, we are concerned that progress to date has been slow and the Welsh Government has fallen behind on the timetable for introducing these measures (set out in its Clean Air Plan).

We note the Welsh Government intends to publish a response to its consultation on domestic burning shortly. It would have been beneficial for a response to be published to coincide with the introduction of the Bill, providing greater clarity and certainty about the Welsh Government's wider plans to reduce air pollution produced by domestic burning. We expect the response to include a revised timetable for the introduction of regulations.

The evidence we received from the Minister suggests the measures consulted on could be brought forward using existing regulation-making powers. We seek further assurance on this matter.

Recommendations

Recommendation 22. The Minister should bring forward amendments at Stage 2 to ensure that section 18 of the Clean Air Act 1993 outlines the circumstances where a local authority should declare a Smoke Control Area. If the Minister is unwilling to do this, she should commit to covering this issue in statutory guidance (see Recommendation 23).

Recommendation 23. The Minister should bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to issue guidance to local authorities on the exercise of their functions under Part III of the Clean Air Act 1993. The guidance should outline the circumstances where a local authority would be expected to declare a Smoke Control Areas, among other things.

Recommendation 24. The Minister should set out the criteria that will be used to determine whether a local authority should be directed by the Welsh Ministers to declare a Smoke Control Area. The guidance issued to authorities (see Recommendation 22) should clarify this criteria.

Recommendation 25. Page The Minister should consider whether and how smoke control coverage could be extended across Wales without adversely impacting on households who rely on solid fuels for heating and cooking.

Recommendation 26. The Minister should clarify which measures set out in its consultation on reducing emissions from domestic solid fuel burning could be brought forward using existing regulation-making powers and which would require further primary legislation.

Recommendation 27. Before the Stage 1 debate, the Minister should publish the Welsh Government's response to its consultation on reducing emissions from domestic solid fuel burning, including next steps. The response should include a revised timetable for making regulations that is suitably ambitious.

Trunk road charging schemes (Sections 19 to 20)

147. Under the Transport Act 2000 ('the 2000 Act'), the Welsh Ministers have powers to make trunk road charging schemes ('charging schemes'):

- where the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length; or

- where a local traffic authority has requested the Welsh Ministers make the charging scheme in connection with a charging scheme it has proposed.

148. Net proceeds from charging schemes made under these circumstances can only be used for the purpose of directly or indirectly facilitating the achievement of policies relating to transport.

149. Section 19 of the Bill expands the Welsh Ministers' current powers to enable them to make charging schemes for the purpose of reducing or limiting air pollution. Section 20 introduces Schedule 2, which makes provision for the application of proceeds of such charging schemes. Schedule 2 places a duty on the Welsh Ministers to lay a statement setting out how net proceeds would be spent and the expected effect on air quality. However, it does not place any restrictions on how net proceeds from charging schemes made for the purpose of reducing or limiting air pollution can be used.

150. When creating a charging scheme, there are no requirements in existing legislation for the Welsh Ministers, or local authorities in Wales, to consult beforehand. The Bill does not change this position, and it continues to be the case that there is no express requirement that a consultation must take place prior to the creation of a charging scheme.

Evidence from contributors

151. Haf Elgar of Friends of the Earth Cymru expressed support for the powers regarding trunk road charging schemes but noted that the Minister had indicated that she currently had no intention of using them. Joshua James of Living Streets also expressed support for trunk road charging as an important tool and considered these provisions to be a crucial part of the legislation.

152. As part of the Committee's scrutiny of the Bill, an online survey was conducted to gather the views of people across Wales.¹ Of the 2,239 people who took part in the survey, 92% disagreed that the Welsh Government should have wider powers to introduce charging schemes to tackle air pollution around trunk roads.

¹ The survey was openly available online as opposed to being based on a representative sample of the public.

153. Chris Ashley, representing the Road Haulage Association, believed that the proposals should be dropped. Instead, he suggested investing public funding in vehicle standards and research and development to reduce pollution levels.

154. Several stakeholders raised concerns about the potential unintended consequences of a trunk road charging scheme. Professor Enda Hayes emphasised the importance of considering social equity arguments in the design of charging schemes. He highlighted that individuals who are financially constrained would most struggle to adapt to the intervention.

155. Joseph Carter highlighted the risk of vehicles diverting from trunk roads on local roads in areas with high levels of deprivation, thereby exacerbating health inequalities. He stressed the need for careful implementation of any such scheme. Ian Jones, from Wrexham County Borough Council, suggested involving local authorities in the consultation process to ensure that problems are not shifted from one area to another.

156. Questions were raised about the most appropriate use of the funds generated from charging schemes. Professor Gwyneth Davies, of the Royal College of Physicians, proposed using the revenue to support environmental and health initiatives. Knowing that the scheme would directly benefit their communities could make such schemes more acceptable to people. Dr. Sarah Jones, of Public Health Wales, highlighted the importance of investing the proceeds in active travel and public transport. Joseph Carter agreed and expressed concerns about the risk of the funds being diverted to other policy areas. He stressed the importance of investing in air quality monitoring and focusing on public and active travel. Both Matthew Vaux, from the WLGA, and Joshua James advocated for ring-fencing the funds specifically for promoting active travel.

Evidence from the Minister

157. When asked why powers to introduce charging schemes for the purpose of reducing or limiting air pollution are needed, particularly given the Welsh Government currently has no plans to introduce such schemes, the Minister said:

"I know it does seem counterintuitive...But it's because we want to futureproof this Bill; we don't want to have to come back with more primary legislation in circumstances where, actually, we haven't been successful in reducing airborne pollutants as a

result of vehicle emissions by the other measures that we're taking forward."

158. In commenting on the circumstances under which the Welsh Government would consider introducing a charging scheme, the Minister explained:

"we've got a plan to tackle roadside nitrogen dioxide concentrations in our precautionary retained measures for the A470 from Pontypridd to Upper Boat, and on the M4 at Newport, junctions 25 to 26, at the moment. They're considered for introduction if our preferred measure of reduced 50 mph speed limit isn't effective. If we have to introduce charging mechanisms in order to make them effective, then we would certainly consider doing so, but I'd much prefer to do it with compliance measures like reduced traffic speed and so on."

159. The Bill does not include a requirement on the Welsh Ministers to consult before introducing a charging scheme. When asked to explain this, the Minister said the Welsh Ministers would already be required to consult to comply with existing legislation. She added:

"...specific consultation requirements are sometimes included in primary legislation where there are very specific groups that the primary legislation in question wishes to ensure are consulted...we don't think, in this instance, that there are very specific people who would need to be consulted, because the general consultation duty will pick up all of the elements of the public and the local authorities, and so on, who are the people who would need to be consulted for a trunk road scheme."

160. The Minister added she was "totally committed to undertaking full public consultation on any future proposals to utilise the new powers".

161. When asked why the Minister had chosen not to restrict the use of net proceeds from charging schemes to fund policies aimed at improving air quality, she said:

"...we expect any revenues from a road charging scheme to be used, in the broadest sense, to improve air quality. The difficulty with hypothecation is that it tends to be very narrow, and there's every possibility that there would be something that we wanted to do that then wouldn't fit within the hypothecation."

Our view

Trunk road charging is undoubtedly a contentious issue for the public. We saw from the results of our survey that the subject is a cause of much concern. However, where it is backed up by data, we agree with the Minister and many of our stakeholders that such interventions are an important tool to reduce air and noise pollution.

We note that the Minister has said that there is currently no intention to use these powers. These provisions have been included so that they can be used, in future, if other interventions have failed. Nevertheless, we have several concerns about trunk road charging schemes.

The potential unintended consequences of such schemes were identified by several stakeholders, including increased traffic on residential roads if charges are imposed. We believe the Welsh Government should carefully consider the potential impacts of any scheme, taking into account scientific data and the views of the affected public. This should include consideration of social equity to ensure that certain groups are not affected disproportionately.

We welcome the commitment the Minister gave to this Committee that any future proposals will be subject to full public consultation. However, we believe it is essential to include a specific duty to consult on the face of the Bill. The evidence we received only served to reinforce the need to engage constructively with local communities that might be affected by the proposals. A duty to consult on the face of the Bill would provide a strong and clear message to the public about the Welsh Government's intention to involve them in decisions on any future charging schemes.

Contributors gave us a very clear message that revenues generated from any future trunk road charging scheme should be ring-fenced and directed towards investment in air quality improvement, in particular active travel and public transport infrastructure. This would encourage modal shift which will directly result in improvements in air quality. We note the Minister's arguments against hypothecation, but we remain of the view that such a provision should be included in the Bill.

Recommendations

Recommendation 28. The Minister should bring forward an amendment(s) at Stage 2 to include a duty on the Welsh Ministers to consult before making a trunk

road charging scheme for the purpose of reducing or limiting air pollution. Consultees must include those who are likely to be affected by the proposed charging scheme, including the public and businesses.

Recommendation 29. The Minister should bring forward an amendment(s) at Stage 2 to ensure that net proceeds from trunk road charging schemes made for the purpose of reducing or limiting air pollution are used for the purpose of directly or indirectly facilitating the achievement of policies relating to air quality, including active travel.

Stationary idling offence (Section 21)

162. Section 21 of the Bill enables the Welsh Ministers to prescribe a monetary range within which the amount of the penalty may be set for a stationary idling offence.

163. Section 87 of the Environment Act 1995 ('the 1995 Act') already enables the Welsh Ministers to make various provisions in regulations for the purposes of Part 4 of that Act, which relates to air quality. This includes a provision enabling the payment of a fixed penalty when an offence has been committed. Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003 already enable a local authority enforcement officer to require drivers to switch off engines when parked and to issue a Fixed Penalty Notice to those who refuse. Currently, the penalty is £20, increasing to £40 if not paid within a specified period.

164. The Explanatory Memorandum states that the current level of fine is not sufficient to act as a deterrent,

“Neither does the current fixed penalty charge of £20 make it financially viable for local authorities to carry out enforcement. While it is acknowledged that fines must be proportionate, the fixed penalty of £20 for stationary vehicle idling is very low.”

165. In relation to the new level of fine, it goes on to say that:

“Current thinking is the range could be set at not less than £40 and not more than £80. Those Regulations will be subject to a full public consultation and will be the subject of pre-consultation engagement with key stakeholders including local authorities to test these indicative amounts.”

Evidence from contributors

166. Contributors were supportive of the proposals in the Bill in principle.

167. Tom Price, from Swansea Council, acknowledged that there is power in place to address stationary idling offences but admitted that there has not been much enforcement to date. He referred to efforts in Swansea to raise awareness and engage with the public to promote the benefits of switching off engines near schools. Steven Manning, of Newport City Council, also emphasised the importance of targeting schools as a starting point for raising awareness and influencing behaviour, considering the captive audience and influence of children.

Evidence from the Minister

168. In explaining why the power to prescribe a monetary range is needed, rather than simply increasing the existing charge, the Minister said:

“putting a monetary range in regulations will facilitate that enforcement and, again, the point about putting it in the regulations is to make sure that, as we're currently living through an age of rampant inflation, for goodness' sake, if I put it on the face of the Bill and it's £50, £50 might not be worth very much at all in two years' time. So, making sure that the regulations are fit for purpose and that the range can be reconsidered regularly will be an important part of this.”

169. When asked who would be responsible for enforcement, the Minister said:

“the regulations will allow the local authorities to authorise whoever they see fit to take this action. And that might well be the parking enforcement officers, it might be environmental health, it could be anybody that they think is appropriate for that local authority; we're not restricting it. The local authority will have the power to authorise an officer of the local authority to take action, whoever is the appropriate person.”

170. In reference to the impact of the provisions, the Minister recognised that:

“we're not anticipating huge numbers of people having to be fined; we're anticipating an awareness campaign of the fact that the fine could be there, and then an education piece. And just to say, we can't say what the range is at the moment, Chair, because we're going to consult on the regulations.”

171. On the need for raising public awareness, the Minister said:

“we can't do anything by just enforcement. We need to make it socially unacceptable to do this, and that's what works more than anything else—so, making sure that children understand that, if their parents have left their engine running, they're actually actively affecting the air quality around a school.”

Our view

We support the inclusion of these provisions in the Bill in principle.

We note the points made by the Minister that the current level of fines is not cost-effective for local authorities to seek to enforce. We also note her comments that these measures are not expected to result in significant increases in fines and will be accompanied by an awareness-raising programme.

However, it is questionable how effective a deterrent the increased fines will be if there are insufficient resources for enforcement. The Welsh Government acknowledges in its Explanatory Memorandum that it has no idea whether the measures will change practices in any local authorities. We note the Minister's comments that the level of fines will be subject to consultation. We believe that is an appropriate approach.

We agree with stakeholders about the need for increased public awareness and engagement regarding the harmful effects of idling. Efforts in Swansea to raise awareness, particularly in school settings, demonstrate the potential for promoting the benefits of switching off engines near schools. However, further action is necessary to ensure consistent and widespread adoption of these practices.

Recommendations

Recommendation 30. The Welsh Government should set out a timeline for the introduction of the regulations to give effect to new levels of fines, including when consultation is due to take place.

Recommendation 31. The Welsh Government should work with local authorities to develop and implement a comprehensive public awareness campaign to educate the public about the harmful effects of idling.

5. Part 2 - Soundscapes

National soundscapes strategy (Sections 22 and 23)

172. The Explanatory Memorandum explains that the Welsh Government has previously committed to “create and pursue any opportunities to further align noise/soundscape and air quality policy and regulation in Wales”.

173. The Bill will place a duty on the Welsh Ministers to publish a national soundscapes strategy, to be reviewed every five years. It will require local authorities, and other relevant public authorities (designated by the Welsh Ministers via regulations), “to have regard to” the national strategy on soundscapes. Prior to designating a “relevant Welsh public authority”, the Welsh Ministers would be required to consult with that authority and other persons considered appropriate.

174. The Bill provides powers to the Welsh Ministers to make regulations amending the period within which they must review the strategy. These regulations would need to be approved by the Senedd.

Evidence from contributors

175. Stakeholders were generally supportive of the inclusion of soundscapes in the Bill, with several acknowledging its intrinsic link to air pollution.

176. Peter Rogers, of the Institute of Acoustics, commended the legislation's pioneering nature while noting the robust evidence base supporting it. Colin Cobbing, representing the Chartered Institute of Environmental Health (CIEH), appreciated the alignment of noise and soundscape policy with air quality, considering it a significant step. However, he expressed difficulty with the terminology and definitions used.

177. Peter Rogers acknowledged the absence of a clear definition of soundscapes in the legislation but pointed out that a singular definition might not be necessary at this stage, considering the potential for evolving understanding. He suggested that the Explanatory Memorandum could be a suitable place to address the definition, allowing for flexibility as the concept develops. This was echoed by Stephen Turner, from the Institute of Acoustics, who discussed the challenges associated with defining soundscapes and proposed avoiding a fixed definition in the legislation to allow for adaptation over time.

178. Stakeholders suggested that an advisory body, like the Clean Air Advisory Panel, should be established to advise the Welsh Government on soundscapes policy. Joseph Carter believed that an expert panel consisting of scientific networks, charities, and royal colleges working in the field would provide valuable insights. Stephen Turner also supported the idea and suggested that an advisory panel would enhance the profile of soundscapes in policy-making.

179. Stakeholders were supportive of the provisions relating to the production of a soundscapes strategy. Peter Rogers discussed the distinction between noise pollution and soundscapes, emphasizing the need to consider the positive impact of sound and the importance of context, place, and locality. This was echoed by Colin Cobbing. Stephen Turner expressed his support for a separate strategy on soundscapes. He believed that having a distinct strategy for soundscapes would have a more significant impact, as noise has often been overlooked as a pollutant.

180. Rosie Pitt of the Institute of Acoustics believed that a five-year timeframe for reviewing the soundscapes strategy would be appropriate. She acknowledged that it was likely that the policy area would undergo significant changes, particularly in the initial years of implementation.

181. The CIEH believed it should be “considered a key stakeholder in the process of preparing and reviewing the National Soundscapes Strategy” as it is a public health matter “that will require the expertise, enforcement and monitoring of local authority environmental health officers”.

182. Colin Cobbing emphasized that the scope of soundscapes policies extends beyond local authorities, affecting multiple sectors and responsible bodies depending on the noise source. He highlighted the need for clear objectives and cost-benefit analysis to give the strategy impact and stressed the importance of appropriately allocating resources for implementing interventions in line with the strategy's objectives.

183. Rosie Pitt, based on her experience working with environmental health departments in councils across Wales, noted existing knowledge gaps among councils regarding noise. She underlined the need for clarity on implementation and consideration of cost impacts on local authority departments.

184. Peter Rogers shared his recent direct experience of speaking with local authorities about soundscapes. He noted their concerns about resource availability and the specific requirements associated with soundscapes policies.

He stressed the importance of providing training and support to address these concerns and ensure effective implementation.

185. Healthy Air Cymru felt the requirement to “have regard to” the strategy doesn’t go far enough. It suggested a duty “to have due regard to” the strategy would strengthen the Bill. The IOA agreed with this view.

Section 22(2)

186. The Institute of Acoustics was concerned over the wording in section 22(2) of the Bill, which states the soundscapes strategy “must include policies for assessing and reducing levels of noise pollution”. It felt reference to ‘reducing’ levels of noise pollution on the face of the Bill could have unintended consequences. It said:

“...it's important with managing noise that you take proper account of the social and economic benefits of the noisemaking activity as well as assessing the noise pollution...”

187. It suggested that instead, the Bill should state the soundscapes “strategy must include policies for effectively managing noise pollution”.

188. In response to the question of including targets in the strategy, Stephen Turner expressed support for incorporating targets without necessarily including them on the face of the Bill. He suggested using noise mapping data to determine the numbers of people exposed to certain noise levels, as well as considering the direct health effects and associated costs of noise impacts.

Evidence from the Minister

189. In relation to the inclusion of a definition of soundscapes, the Minister said that the international standard definition of soundscapes would be included within the National Soundscapes Strategy. This would give the Welsh Government flexibility to update the definition as necessary.

190. On the issue of the establishment of an advisory panel on soundscapes, the Minister’s letter said:

“We are willing to consider any case made for the establishment of a more formal standing advisory panel on soundscapes...[but] would need to be convinced that the value it adds to the current arrangements would outweigh administrative costs.”

191. On 26 June 2023, the Minister for Climate Change launched a consultation on a draft national soundscapes strategy, as required by section 22 of this Bill.

Our view

Along with stakeholders, we broadly welcome the inclusion of soundscapes in the Bill. This is potentially an exciting policy area which could have a significant impact on the quality of life of many Welsh citizens. However, we also note that this is a hitherto underdeveloped policy area, and many issues need further clarification.

Several stakeholders raised concerns about the absence of a clear definition of soundscapes in the legislation. We agree that it is sensible to provide flexibility, given the evolving nature of this policy area. We welcome the Minister's commitment to this Committee that a definition will be included in the National Soundscapes Strategy.

We were somewhat concerned to hear about a potential lack of expertise and resources among local authorities and public bodies. We heard calls for training and resources to effectively implement any future policies. The Welsh Government should explain how this will be delivered. An advisory panel may contribute to addressing this knowledge gap. The Welsh Government should explore options for creating an expert panel including scientific networks, charities, and royal colleges working in the field.

We agree that key stakeholders should be involved in the preparation of the National Soundscapes Strategy. We note that the Minister published a draft Strategy for consultation on 26 June 2023. None of the stakeholders who gave evidence indicated that they were aware of or involved in its development. The Minister must clarify to what extent external stakeholders and experts were included in this work.

Recommendations

Recommendation 32. The Welsh Government should include a definition of soundscapes on the face of the Bill or, alternatively, in the Explanatory Memorandum.

Recommendation 33. The Welsh Government should create an expert advisory panel comprising scientific networks, charities, and royal colleges working in the field of soundscapes.

Recommendation 34. The Welsh Government should set out what additional resources it will provide to local authorities and public bodies to address existing knowledge gaps and enhance their capacity to implement soundscapes policies effectively.

Recommendation 35. The Welsh Government should actively involve key stakeholders in the preparation and review of the National Soundscapes Strategy. The Minister should explain the extent to which key stakeholders were involved in the draft Strategy, which was published for consultation on 26 June 2023.

Annex 1: List of oral evidence sessions

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's [website](#).

Date	Name and Organisation
29 March 2023	<p>Julie James MS - Minister for Climate Change, Welsh Government</p> <p>Olwen Spiller, Welsh Government</p> <p>Roger Herbert, Welsh Government</p> <p>Helen Rowley, Welsh Government</p>
4 May 2023 Panel 1	<p>Dr Victoria Jenkins, Swansea University</p> <p>Professor Enda Hayes, University of the West of England</p>
4 May 2023 Panel 2	<p>Joseph Carter, Asthma and Lung UK</p> <p>Professor Gwyneth Davies, Royal College of Physicians</p> <p>Dr Sarah Jones, Public Health Wales</p>
4 May 2023 Panel 3	<p>Councillor Matthew Vaux, Welsh Local Government Association (WLGA)</p> <p>Ian Jones, Wrexham County Borough Council and on behalf of Directors of Public Protection Wales (DPPW)</p> <p>Steve Manning, Newport City Council</p> <p>Tom Price, Swansea Council</p>
11 May 2023 Panel 1	<p>Chris Ashley, Road Haulage Association</p>

Date	Name and Organisation
	<p>Christine Boston, Sustrans Cymru</p> <p>Joshua James, Living Streets</p>
<p>11 May 2023 Panel 2</p>	<p>Stephen Turner, Institute of Acoustics</p> <p>Peter Rogers, Institute of Acoustics</p> <p>Rosie Pitt, Institute of Acoustics Welsh branch</p>
<p>17 May 2023 Panel 1</p>	<p>Haf Elgar, Friends of the Earth Cymru</p> <p>Jenny Hawley, Plantlife, representing Wales Environment Link</p> <p>Nadia De Longhi, Natural Resources Wales</p> <p>Eirian MacDonald, Natural Resources Wales</p>
<p>17 May 2023 Panel 2</p>	<p>Kristian James, Chartered Institute of Environmental Health</p> <p>Colin Cobbing, Chartered Institute of Environmental Health</p>

Annex 2: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's [website](#).

Reference	Organisation
AQS 01	Healthy Air Cymru
AQS 02	Asthma and Lung UK
AQS 03	Public Health Wales
AQS 04	Professor Enda Hayes
AQS 05	Royal College of Physicians
AQS 06	Newport City Council
AQS 07	Dr Victoria Jenkins, Associate Professor
AQS 08	Chartered Institute of Environmental Health
AQS 09	The Institute of Acoustics (IOA)
AQS 10	Royal College of Paediatrics and Child Health
AQS 11	British Medical Association
AQS 12	Welsh NHS Confederation
AQS 13	Wales Environment Link
AQS 14	Living Streets
AQS 15	Individual
AQS 16	Abergavenny Bio-char
AQS 17	Individual
AQS 18	Individual
AQS 19	Acoustics Group of the Institute for Environmental Design and Engineering at University College London
AQS 20	Individual

Reference	Organisation
AQS 21	Cardiff and Vale University Health board
AQS 22	Royal College of GP's Cymru Wales
AQS 23	Electric Vehicle Association (EVA Cymru)
AQS 24	Individual
AQS 25	Noise Abatement Society
AQS 26	My World My Home, Coleg y Cymoedd
AQS 27	Cross Party Group on the Active Travel Act
AQS 28	Stove Industry Association
AQS 29	Individual
AQS 30	Cycling UK
AQS 31	Individual
AQS 32	Road Haulage Association
AQS 33	National Grid
AQS 34	Individual
AQS 35	Royal Town Planning Institute (RTPI)
AQS 36	Sustrans Cymru
AQS 37	Friends of the Earth Cymru
AQS 38	Natural Resources Wales

Additional Information

Title	Organisation
AQS 02	Asthma and Lung UK
AQS 04	Professor Enda Hayes
AQS 05	Royal College of Physicians
AQS 07	Dr Victoria Jenkins