

Air Quality Session of Scottish Parliament NetZero, Energy and Transport Committee

Submission of written evidence/commentary

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[1] I support and concur with ESS's Air Quality Improvement Report submission to Parliament and its recommendations and the consequent requirement for an Improvement Plan in response from Scottish Government.

[2] I agree with their thorough analysis in relation to NO_x and note that they appear not to have cited or assessed the Report of the Review of CAFS commissioned by and provided to Scottish Government in 2019.¹ Paragraphs 11.4-11.6 of the conclusions of that report establish a clear context. It is noteworthy too that WHO recommended standards have been tightened since then and a view has clearly been taken by ESS that broad ambient and generalised compliance data versus point and exceedance data can be taken to assess legal/Directive compliance. I support this. This in turn highlights the issue of measurement locations and methods also raised in the CAFS Review Report. The science around harm has also progressed since the report.

[3] Whilst there has not hitherto been a comprehensive independent review of air quality, ESS's assessment is the closest, albeit pollutant specific (NO_x), assessment other than the CAFS Review. There were challenges for that review especially in securing agreement from transport representatives in relation to nitrogen dioxide issues but the harmful and non-compliant position was clear. The report involved a range of government contributors and while independently chaired, in governance terms, it was interpreted and responded to by Scottish Government staff and fell at the more comprehensive but modest end of potential critical analyses of performance of the CAFS Strategy.

[4] Considering the inputs the (NZET) Committee has received, it is notable that local government has not provided a detailed or useful contribution. The SEPA submission to the committee is also rather disappointing in its lack of critical analysis and assessment. It is also concerning, especially over the last decade, that SEPA has not once, as ESS points out, used its Section 85 powers to seek AQMA and now LEZ related performance improvements. These issues suggest that the ESS proposal of an overseeing monitoring body is both an excellent idea but one which cannot readily or reliably involve either local government or SEPA, despite the latter's logical national oversight locus. The Scottish Government, given the risk of again "marking its own homework", especially where such homework is of poor quality, partial and frequently submitted late, should probably also be excluded as a reliable assessor. Independent oversight is essential.

¹ <https://www.gov.scot/publications/cleaner-air-scotland-strategy-independent-review/> See also <https://www.scottishairquality.scot/lez> and the various CAFS Review submissions and recommendations presented there.

[5] Performance by UK Government is a separate matter although obviously the central issue for the Commission and CJEU consideration of pre-Brexit Directive compliance and addressed in some detail in the ESS submission. In terms of Scotland 's position pre- and post-Brexit, performance by Scottish Government and its agencies and local government has been poor and leadership pressure appears to have been inadequate.

[6] Delays in policing AQMAs, target delivery, establishing LEZs and the failure to drive implementation of the lower WHO set standards are disappointing and have affected outcomes.

[7] The trajectory of the main pollutants whilst on a medium-term decline, slowed but was masked by COVID effects and appears to be rising in crucial cases. The actual position is difficult to assess, given both the impact of COVID and the slow analysis/synthesis, production and circulation of data into accessible reports. It appears that, viewed in UN, WHO or objective scientific and regulatory terms, Scotland's performance on NO_x, ammonia and particulate pollution remains poor.

[8] The case for a much more robust approach to precaution on health grounds, including target action for LEZ areas and areas of poor health and multiple-deprivation disadvantage is clear and has simply not been adequately addressed. What was readily perceived as urgent in 2018/19 has still only partially been acted upon and in any event current data have not been presented to allow any credible positive assessment of progress. This is disappointing.

[9] The constraints and clarification by ESS on the need for timing and delivery targets for AQMAs and their plans is wholly supported as it was by the 2019 review.

[10] Much firmer, quantified and targeted action planning is required, with such resources and tools as are independently assessed as required to ensure timely delivery. The use of monitoring and governance reform as proposed in the 2019 Review would also be usefully implemented.

[11] As regards consequences of failure, it appears both from the EU level and within the UK and Scottish government contexts, there have been none. No enforcement action has occurred. And without appropriate intervention and action via the executive, political or judicial routes, improvements are effectively voluntary, and dependent upon resource and will. This is unsustainable. Additionally, whilst there appear to be no enforcement consequences of continued harmful and illegal levels of pollution, there are consequences. Vulnerable children and adults and the population at large continue to be placed in harm's way by the levels of pollutants, including NO_x to which they continue to be exposed.

[12] I wish the Committee well in securing agreement and action on the way ahead to drive the necessary improvements.