



Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence: The UK's implementation of the EU air quality directive

Wednesday 13 June 2018

10.25 am

Watch the meeting

Members present: Lord Teverson (Chairman); Lord Cameron of Dillington; Viscount Hanworth; Lord Krebs; The Duke of Montrose; Lord Rooker; Lord Selkirk of Douglas; Baroness Sheehan; Viscount Ullswater.

Evidence Session No. 1

Heard in Public

Questions 1 - 15

Witnesses

[I](#): Katherine Nield, UK Clean Air Lawyer, ClientEarth.

[II](#): Polly Cook, Executive Programme Manager, Leeds City Council; Mai Jarvis, Environmental Quality Team Manager, Oxford City Council; Marshall Poulton, Assistant Director (Transport), Newcastle City Council, and Chair, Core Cities UK.

Examination of witness

Katherine Nield.

Q1 The Chairman: This is the first of two panels in our evidence session today on the UK's implementation of the EU Air Quality Directive. I remind Members to declare any interests when they first speak. Quite obviously, this session is public. It will be transcribed and we will send you a copy of that transcript. If you think there are any inaccuracies, please let us know. We are also being webcast. Perhaps we could refer to you as Katherine; do you mind? It is probably easier than going through titles.

Katherine Nield: That is absolutely fine.

The Chairman: Perhaps you could introduce yourself for those who are watching on the webcast or are here from the public, so that we have some background.

Katherine Nield: I am the UK Clean Air Lawyer at ClientEarth, which is a non-profit environmental law organisation. We have successfully taken the Government to court three times over their failure to meet the requirements of the ambient air quality Directive.

Q2 The Chairman: Thank you very much indeed. I will start with a general question to make sure that, as part of our evidence and with your expertise, we understand the main requirements of the Directive on ambient air quality and the extent to which it has been implemented in the United Kingdom, or whether you think that is a complete negative. Perhaps you could give us some legal background on where we are at the moment and how the Commission sees these things.

Katherine Nield: There are two principal requirements at the heart of the Directive that the UK has consistently failed to meet over the past eight years: the obligation not to exceed legal limits for certain air pollutants, specifically nitrogen dioxide, and the obligation to draw up air quality plans where those limits are breached.

I will give a little more detail on those legal limit values. The pollutant that remains at illegal levels across the UK is nitrogen dioxide. Under the Directive, Member States were obliged to meet that legal limit by 2010. Eight years on, 37 out of 43 zones in the UK still fail to meet the legal nitrogen dioxide limit. In these areas, people continue to be exposed to illegal and harmful levels of air pollution. Under the Directive, where those legal limits are exceeded, there is a requirement for Member States to take action. They cannot just sit back and watch. Principally, they are required to ensure that air quality plans are in place. Those plans must set out measures designed to keep the period of exceedance as short as possible.

So despite the UK having breached the nitrogen dioxide limit values for over eight years, we are still waiting for a legally compliant air quality plan. We still do not have one. We have successfully taken the

Government to court on this issue a number of times, and the courts have found that the air quality plans produced to date simply have not been good enough. They have not met the requirements of the Directive. I do not know whether it would be useful for me to explain briefly the courts' main criticisms of the air quality plans.

The Chairman: It would be very helpful.

Katherine Nield: Our second legal action was against the 2015 air quality plan. The court found two major flaws in the plan. First, Defra was wildly overoptimistic in the modelling assumptions that it used for modelling air quality, specifically on the real-world emissions from diesel vehicles. That was really important, because it meant that there was overoptimistic modelling as to the time by which the UK would reach compliance in a number of areas. The projections in the 2015 plan estimated a much earlier compliance date than would have actually been achieved. That was used as a reason to do very little about the problem.

Secondly, the court found that the plan only modelled targeted compliance on a five-year basis. That was not seen as granular enough to ensure compliance as soon as possible, which is a requirement under the Directive. That was the basis of the 2015 legal challenge, and the Government were told to go away and draw up an updated air quality plan. They did that in July 2017, so last year.

Interestingly here, the plan adopted a significant change of tack. It was a plan for many plans, in that rather than setting out concrete national measures to be adopted to deal with the issue, the Government passed the baton to local authorities to draw up their own air quality plans.

Once again, ClientEarth challenged this plan in 2017. In February this year, the High Court agreed with us that still not enough was being done. I will outline the main grounds on which the court found the plan unlawful. First, the plan did not contain a compliant air quality plan for Wales. The 2017 plan contained almost no concrete measures or commitments from Welsh Ministers. Secondly—this is really important—it did not mandate any action from 45 local authority areas that were modelled to suffer from NO₂ exceedances for many years to come. They had not been mandated to do anything; the Government said that they were taking a less formal approach with these local authorities rather than putting on them a legal requirement to take action. Those were the two principal bases on which the 2017 plan was not compliant.

Perhaps it is useful to say where we are now. As a result of the 2017 judgment, the Government were told to go away and try again once more. At the moment, we are in a waiting game. We are waiting, first, for a compliant air quality plan for Wales, which is due in July. Secondly, we are waiting for legally compliant air quality plans for about 61 local authority areas. Those are due in various stages and batches over the next six months or so. Each of those local authority plans will also have to meet the requirements of the Directive, including keeping exceedance periods as short as possible.

The Chairman: Perhaps you could clarify something for me and say a little about how the monitoring actually works, because you cannot monitor NO₂ at every point in the country, can you? Could you say a bit about which areas are tested, how that is done and how we have an assurance as citizens that it is robust, or whatever? Can you explain that very quickly?

Katherine Nield: Yes. I will be brief. The Directive sets out requirements for monitoring and the minimum number of monitoring stations that are required. It also allows not just for direct monitoring but for modelling. It is modelling that Defra uses: on the basis of a number of monitoring stations, it then uses modelling to assess and predict compliance with those limit values.

The Chairman: And you are happy that that monitoring is done in the right places and is not being gamed in any way.

Katherine Nield: We have not challenged the legal basis of the monitoring, but there are some concerns. Without going into too much detail, there are two parallel and relatively siloed monitoring regimes. First, there is the national monitoring regime that Defra undertakes based on national level modelling. Local authorities, under a separate regime, are also required to undertake their own monitoring. The issue we see is that a number of local authorities, under their local-level modelling, are seeing and measuring exceedances in areas that do not show up as part of the national model. It is the national model that dictates the action required under these air quality plans. Like a number of local authorities, our concern is that local-level data is not being incorporated into national-level planning. So, there are areas that are shown to be in exceedance but where ambitious action is not required.

The Chairman: That is straightforward.

Viscount Hanworth: You started by saying that 37 out of 43 zones fail to meet the limit levels. Are those 43 zones coextensive with the area of the UK? Or how are they designated? Perhaps you could clarify that a little.

Katherine Nield: My understanding is that the 47 zones—

Viscount Hanworth: 43?

Katherine Nield: Sorry, 37 zones out of 43 are not in compliance. It is a little complicated, because they do not necessarily correlate with local authority areas. They are designated by the UK under the Directive. If it would be useful for us to provide more information on the zones, I can do so.

Viscount Hanworth: Are they for the country as a whole, do you think?

Katherine Nield: Yes.

Viscount Hanworth: I presume that there are vast areas of the country

where the issue does not arise because they are rural. Would the 61 local authorities be urban authorities, necessarily? Or would they be of all sorts?

Katherine Nield: Yes, there are city authorities. Sorry, I do not quite understand your question.

Viscount Hanworth: I am trying to get an idea of where the hotspots are and how the measurements are taken and reported. You said that 37 out of 43 areas are not compliant. It may be that you have non-compliance in one specific location within a wide area, which is not as significant as overall contamination in an area.

Katherine Nield: I see what you mean. Obviously, the issue is worse in certain areas. The issue is focused in urban zones but not restricted to them.

Baroness Sheehan: This question may be more relevant to our next panel. Who has the discretion as to where the monitors are placed in local authorities?

Katherine Nield: For local authority-level monitoring? I cannot answer that question off the top of my head. I think it is at the discretion of local authorities to some extent, but they have to meet certain requirements. If it would be useful for me to follow up on that, I am happy to do so.

The Chairman: As Baroness Sheehan says, we will do that in the next part of the session when we have some people from local authorities here.

The Duke of Montrose: I have a biomass heating system, so there is probably some pollution from that.

The Printed Paper Office recently offered us a Clean Air Strategy for 2018 from the Department for Environment, Food and Rural Affairs. Where does that fit into the sequence of progress? Does that produce more of what you need, or is it completely irrelevant?

Katherine Nield: It is interesting that you question whether it is completely irrelevant. It is not an air quality plan for the purposes of the Directive, if that is your question.

Without going into too much detail, I understand that it is a precursor to the Government's plan under the National Emission Ceilings Directive. It deals with the emissions of certain pollutants, and reducing them, but it does not deal with addressing ambient concentrations of those pollutants. Obviously, the issues are related, but it is not a plan under the Directive.

Our concern about that Clean Air Strategy is that much of the illegal levels of nitrogen dioxide come from road traffic and transport emissions. The Clean Air Strategy does not do much extra to deal with that issue. It offers nothing concrete to add to what the Government have suggested as part of their air quality plans.

Q3 Viscount Ullswater: Perhaps I ought to declare an interest, because I drive a car in central London. I am contributing to the breach of air quality standards, but I do not think it is entirely up to me.

You have explained why you have taken the Government to court. Do you want to say anything more about why the Commission has referred the UK to the Court of Justice and what specific requirements it has failed to meet?

Katherine Nield: That is a very pertinent question, because the Commission referred the UK to the CJEU in May and, similarly, those proceedings relate to the UK's failure to meet nitrogen dioxide limit values and their failure to have an adequate air quality plan in place that ensures compliance in the shortest possible time.

In that context, it is important to note that this referral is just a further step in the ongoing infringement action that the Commission has been taking against the UK. That procedure provides a number of steps and stages whereby the Commission can communicate its concerns to the UK and the UK has a chance to respond, explain itself and deal with the issue. Those stages have passed, and obviously the Commission is obviously still not happy with the extent to which action is being taken in the UK.

This type of referral is generally used as a measure of last resort once other, more conciliatory, stages have been exhausted. The vast majority of these proceedings do not go to the CJEU, so this highlights how important the Commission sees this as and how serious it thinks this infringement is.

The Chairman: Would you say that the Commission and the European Court should have saved you a lot of money and got on with this by themselves, so that you, or ClientEarth, did not have to carry the burden in the meantime? Or should this process be a last resort, as you say?

Katherine Nield: My understanding is that it is generally a last resort. I think the Commission prefers the domestic courts to try to deal with the issue.

The Chairman: That is fine.

Viscount Hanworth: Has the Commission been particularly riled by the behaviour of our civil servants in your estimation or not?

Katherine Nield: I do not think I can comment on that.

Viscount Hanworth: It seems to me that it has.

Q4 Lord Krebs: My question follows on directly from the previous question. You have said that this is a stage in the process, and you described going to the European Court as the last resort. What are the next steps in the legal process if the UK Government fail to comply in these two areas: lowering the levels and having an air quality plan that meets the requirements? What happens next, and what potential outcomes are

there?

Katherine Nield: Following referral to the CJEU, it can take two years for the court to rule on a case brought to it. It will take even longer for a fine to be imposed, if one eventually is, because that requires a second referral.

What is to come is essentially a two-stage process. There is the first referral to the CJEU, which will rule on whether the UK is in breach of the requirements of the Directive. That is a substantive ruling. Then, if the UK goes away and still does not fix the issue, the Commission can refer the UK to the CJEU for a second time.

It is that second referral that might result in a fine if the UK has not fixed the problem. I do not know whether it would be helpful for me to discuss the basis on which the fines are calculated and determined.

The Chairman: Please tell us about that.

Katherine Nield: Fines tend to be made up of a lump-sum penalty and a daily penalty. The lump-sum penalty reflects non-compliance between the first, substantive, ruling on whether someone is in breach and the ruling on the fine. The lump sum reflects non-compliance between those dates. The daily penalty is designed to deter ongoing non-compliance after the imposition of that lump-sum fine.

The Commission can suggest a fine to the court based on a number of factors such as the length of time that the country has been in breach. In this case, it has already been eight years; it will be longer by the time any fine is imposed. Then there is the seriousness of the breach and the effect that it has on peoples' interests. In this case, this is about air quality and people's health, which will only make the fine weightier. Thirdly, there is the country's ability to pay, or its GDP.

While we have these criteria, which suggest that the fine might be quite weighty, it is by no means a predictable science. It is difficult for us to pin a number on this at this stage.

We can look at recent equivalent fines that have been imposed on countries with GDPs that are vaguely equivalent to ours. In 2014, the CJEU imposed a lump-sum fine of £40 million on Italy for failing to tackle the dumping of illegal waste. There was a subsequent periodic fine of more than 40 million for every six-month period of exceedance, or breach, that followed. So, yes, the level of fine can be pretty hefty.

Something that is a bit concerning, which might be brought up in the following part of the evidence session, is that in 2014 the Government sent a letter to local authorities reminding them that under the Localism Act they could require local authorities to pay some or all of that fine. Passing responsibility down in this way is quite worrying and seems inappropriate in this context.

There is the obvious point that local authorities are already under strain and do not necessarily have the resources or powers to address this problem on a national scale. Local action will be effective only if it is supported by appropriate national measures. There is also the fact that the Secretary of State mandated local authorities to take action only very recently. The fault for the delay in action until then very much falls in the lap of national government.

The Chairman: When it comes to the Court, apart from the judges, are there only the two parties there: the Commission on the prosecution side and the nation state on the defence side? Or would organisations such as yours or even local authorities be there to give their opinion in some way?

Katherine Nield: I do not know. You have caught me out there, but I am happy to follow up on that. It is an interesting question. I would like to be there, but I do not know if it is possible.

The Chairman: That is fine.

Q5 **Baroness Sheehan:** Moving on to barriers to implementation, 16 air quality zones—mostly urban centres, including London, Birmingham, Leeds etc; I am sure that you know this better than I do—have had annual concentrations reported in 2016 as almost two and a half times the nitrogen dioxide limit set by the Directive. What have the barriers to the UK implementing the Directive been? Have some parts of the UK done better than others?

Katherine Nield: That is a very good question. Successive Governments have known about the issue for a really long time. As I have already mentioned, compliance was required back in 2010, but eight years on we are still in this position. The Government seem to have dragged their feet at every stage in the process. Unfortunately, it has taken the involvement of the courts for them to move their hand and force action. That is unfortunate, especially when people's health is at stake.

I have already explained the basis on which the courts have criticised previous air quality plans, so I will not repeat myself. There is an issue with the modelling, the assumptions used and the failure to take action in certain areas that continue to suffer illegal levels. It is our position that what is most frustrating in all this is that the Government's own evidence shows that charging clean air zones are the most effective way of bringing down nitrogen dioxide levels in the shortest possible time.

I realise that I might be using jargon, so I will explain what a clean air zone is. It is a designated area that the most polluting vehicles have to pay to enter. Despite of evidence the Government has that this is a quick and effective way to deal with the issue, they have failed to bite the political bullet and mandate those zones being rolled out across the UK in the areas that need them. Instead, they have passed the decision down to local authorities.

Through this mandate for local authorities to come up with their own plans, it is now up to local authorities to decide whether to implement these clean air zones. Hopefully that answers your question.

Baroness Sheehan: Have some parts of the UK done better than others?

Katherine Nield: That was the bit I did not answer. We are yet to see the detail of the local authority air quality plans that are coming out over the next six months. It is difficult for us to comment in detail, because we have yet to see what will be proposed. We will have to watch this space.

At this stage, it is already clear that some local authorities are strongly resisting taking effective action. Despite having some of the worst air quality in the country, Derby has indicated that it is not going to back the implementation of a clean air zone. It looks as though it is suggesting that it will implement a scrappage scheme instead, which falls contrary to the Government's evidence on the potential effectiveness of these kinds of measures.

Baroness Sheehan: Sorry, what is a scrappage scheme?

Katherine Nield: I can follow up with more detail on it, but I suppose the premise is paying to take the oldest diesel vehicles off the road.

Baroness Sheehan: So getting rid of diesels.

Katherine Nield: But it is not all negative. Some cities across the UK are showing leadership independent of any mandate from Governments.

Oxford—we will hear from it later—will introduce a zero-emission zone in the city centre by 2035, with restrictions on a small number of streets and vehicle types being introduced in 2020.

I do not know whether Members will have noticed, but the Mayor of London has committed to introducing an ultra-low emission zone by April next year, which will mean that all vehicle types that do not comply with set emissions standards will have to pay to enter central London, with the aim of keeping the dirtiest vehicles out of the city centre. Last week, the mayor announced that the zone will be extended to the North and South Circular.

That is very welcome news, but in the context of London being the area that suffers from some of the worst air pollution, it goes just some way to recognising the scale of the issue.

Q6 **Viscount Hanworth:** How does the UK's implementation compare to that of other European countries? What infraction procedures are being pursued elsewhere? You mentioned Italy briefly. Perhaps you could expand on that. Finally, is there best practice elsewhere which the UK Government could learn from?

Katherine Nield: To clarify quickly, I may have confused the issue by mentioning Italy. That fine related to the illegal dumping of waste, but it was used as an equivalent environmental fine.

Viscount Hanworth: It was not specifically about air quality.

Katherine Nield: No. In any case, Italy is another country that has recently been referred to the CJEU. Unfortunately, there are still illegal levels of air pollution across Europe. The UK is not an exception, although that is not an excuse not to take the issue seriously or not to take serious action.

In terms of other infraction proceedings, the Commission recently referred Germany, Italy, Spain and France to the CJEU at the same time as the UK's referral over equivalent failures to meet the requirements of the Directive. Legal proceedings against Bulgaria and Poland are one step further down the line in that the CJEU has already ruled those countries in breach of the Directive. That is with respect to failure to meet particulate matter values and have adequate air quality plans in place.

Viscount Hanworth: In Poland, that would be coal burning, I should think.

Katherine Nield: I imagine.

Viscount Hanworth: Should we feel extremely guilty or slightly guilty? How should we rate our relative degree of dereliction?

Katherine Nield: As I said, the fact that it is an issue elsewhere in the EU should not be an excuse for us not to take action. When it comes to best practice, a number of cities in Europe are showing leadership.

Viscount Hanworth: Which ones?

Katherine Nield: Paris is aiming to phase out diesel cars by 2024 and petrol cars by 2030. Madrid is also aiming to phase out diesel cars across the city and have a zero-emissions zone in place by 2025. Oslo has aimed to ban private vehicles from the city centre by 2019. Germany already has a network of low-emission zones across the country to deal specifically with particulate matter.

Interestingly, while this is not necessarily best practice—it results from court action that ClientEarth and another German NGO have taken—some interesting developments are happening in Germany. The Federal Administrative Court ruled that towns and cities were able to impose complete bans on diesel vehicles to bring down air pollution in German cities. In May, Hamburg introduced the first of these bans on two roads within the city. Aachen, a city in western Germany, has just been ordered by the regional court there to put equivalent restrictions in place.

It looks as though this will result in a domino effect across Germany, with many more such diesel restrictions imposed in certain towns and cities with the biggest problem. This is especially interesting, because it shows

that the German courts recognise such restrictions as being an effective and quick way to deal with the problem.

Viscount Hanworth: Do you know of the Dutch city of Groningen? It totally banished vehicles from a wide area.

Katherine Nield: There you go.

The Chairman: Relatively, is the UK one of the worst performers in levels of NO₂ of those being prosecuted before the ECJ? Are we even worse than the others or are we somewhere in the middle?

Katherine Nield: Something about the figure of 37 out of 43 tells me that the situation is quite bad in the UK. Right now, I cannot make that comparison.

Q7 **Lord Cameron of Dillington:** I should first declare an interest as chair of the Centre for Ecology & Hydrology, which is a government scientific institution that thrives on finding solutions to air pollution. Having said that, I am a complete ignoramus about the science behind this whole area.

What action do the UK Government need to take now to meet the requirements of the Directive? To some extent, you have explained what is going on in other countries. As an owner of a vehicle in a clean air zone, for instance, how do I know what my emissions may or may not be? As a member of the general public, I feel in total ignorance. You see signs saying, "You are entering a clean air zone", but you have absolutely no idea whether that applies to you. As it happens, I drive a diesel car, but I do not know quite what the emissions situation is with my car.

Should the Government be doing more? You have given examples of local authorities in other countries. What practical measures could a local authority take to meet the requirements of the Directive?

Katherine Nield: I am going to split that up. They are all good questions. What action do the UK Government need to take now? At the moment, we are in the middle of a waiting game. We are waiting for compliant air quality plans for Wales and for 61 local authorities across England. They are due to be put in place in the next six months or so. It is important to stress that these local plans will also have to meet the requirements of the Directive. Just passing on responsibility does not mean that you can shirk the legal requirements under the Directive.

The plans will have to show how air pollution is to be brought within legal limits in the shortest time possible. Despite local authorities being handed the baton of the legwork for assessing and implementing what measures are appropriate in this context, national government cannot simply sit back and watch that process happen. Under domestic regulations, it is still the Secretary of State who remains legally on the hook for ensuring that air quality plans are in place and comply with the requirements of the Directive.

In that context, Government needs to do three really important things. First, it needs to approve only air quality plans that truly meet the requirements of the Directive and be willing to refuse approval where they do not. In particular, where a local authority has not committed to putting in a clear air zone or the scope of that zone is limited, it will need to have justified that decision by reference to a rigorous impact assessment. It must show that whatever alternative methods it puts in place are at least as effective at bringing down air pollution. We do not have evidence to show what those alternative measures would be.

Secondly, it is necessary for national Government to exercise those national-level policy levers that ensure local action can be effective. We all know that there is only so much that local authorities can do with the powers and resources available to them. In particular, if local authorities are to be able to restrict access of the oldest, most polluting vehicles to city centres, people need to be given an alternative. A charging clean air zone is not a revenue-producing measure; it is designed to keep the dirtiest vehicles out of the city. Incentives and support need to be in place to give people alternatives. That means investment in walking and cycling, investment in public transport, making zero-emission or low-emission vehicles more affordable. As a Member brought up earlier, the recent Clean Air Strategy does not add anything to what we currently see in those policy areas.

My third point feeds into this. Government must provide sufficient financial and technical support to local authorities when they carry out their analysis as to what the appropriate measures should be but also when they implement those measures. You cannot just pass the baton on and not provide support.

Baroness Sheehan: My question is about the impact on air quality of reducing the speed of vehicles in urban areas. As I understand it, in quite a lot of countries in the EU the speed limit in urban areas is 30 kilometres an hour, which is about 18 miles per hour. In areas where 20 miles per hour speed zones have been introduced, has that improved air quality because it smooths out driving and there is much less stop-start driving, fewer vehicles waiting and less congestion?

Katherine Nield: I know that is the idea behind those measures. Unfortunately, I do not have the scientific expertise to comment on them. I do not know whether studies have been done on how effective that is, but it is a very good point. I know for example that the Welsh Government recently suggested that they would introduce speed restrictions on a number of trunk roads that suffer from the worst levels of air pollution. We are yet to see whether that will be effective.

Viscount Hanworth: This question perhaps cannot be answered, but I wonder what the actual potential is for low-emission vehicles to lower emissions - vehicles that depend on fossil fuels? Of course, electric vehicles will be entirely free of such emissions. What is the potential there?

Katherine Nield: What is the potential for low-emission vehicles to lower emissions?

Viscount Hanworth: What is the potential for low-emission vehicles powered by hydrocarbons to lower the emissions that you are thinking of? Forgetting carbon dioxide, can the various pollutants, such as nitrogen dioxide, particulate matter, organic compounds and so on, be taken under control by technology applied to petrol-powered vehicles?

Katherine Nield: Again, that is a technical question, but I know that low-emissions vehicles obviously have low emissions. An issue that is often ignored is the particulate matter that comes from brake and tyre wear. Unfortunately, that is not avoided. It has always been our position that we need not only cleaner vehicles but fewer ones on the road.

Viscount Hanworth: That is a very good answer. I had completely forgotten about tyres and brakes.

The Chairman: Colleagues, we have 10 minutes left for this part of the session, because we will see the local authorities afterwards. Perhaps we can battle on through to make a bit of progress.

Q8 **Lord Selkirk of Douglas:** To the best of my knowledge, I do not have a current interest, but I have a past interest as an MP when allegations were made about emissions. According to my recollection, action was taken.

Are proceedings likely to be complete before the UK leaves the jurisdiction of the CJEU? Could any action be taken against the UK after it leaves the EU?

Katherine Nield: That is a very pertinent question. As I previously explained, it could be a matter of years before any fine is imposed on the UK by the CJEU. We have that two-stage process, and those two stages are separated by a number of years. It is not a speedy process. It is extremely unlikely to conclude in a fine before exit day next year. It may not even do so before the end of a transition period.

That said, as things stand that does not necessarily mean that the UK would be off the hook. As Members may be aware, the CJEU's ability to impose fines after the end of a transition period is still not off the table. As far as I am aware, that matter is still up for discussion and has not been set in stone in the Withdrawal Agreement.

The detail of how, and for how long, the CJEU will retain jurisdiction after exit day is still up for grabs, but the text that has been proposed by the EU 27 suggests that CJEU jurisdiction would continue to apply even after a transition period with respect to proceedings that have already commenced, such as those that are going on at the moment against UK. If that text is eventually agreed—I cannot comment on how likely that is—fines could be imposed after the UK has left the EU. In the meantime, the Commission is seen to be continuing with a business-as-usual approach in that context.

Lord Selkirk of Douglas: May I follow that with a very elementary question, to which I should know the answer but do not? You mentioned earlier that you have taken action against the Government and won some cases. Did you consider taking action against any specific companies or bodies that were being accused directly, or did you do it through the public authorities on all occasions?

Katherine Nield: To date, our legal action has been focused on the national government air quality plans.

Q9 **Lord Rooker:** Good morning. I have been a driver for the past 50 years. In the last 10 years, following strong government scientific advice, I have been using a diesel vehicle like millions of other motorists. We were sold a pass on that.

On the court cases that you have taken against the British Government, am I right in thinking that the courts have not levied any fines on the Government? You have just had a decision that they were not following the law?

Katherine Nield: Yes, that is right, but the remedy that the court has imposed is a mandatory order on the Government to draw up another, compliant, plan.

Lord Rooker: Therefore, the difference between you taking that action and the Commission commencing infraction proceedings is that there is a financial sanction on the various government departments, especially for the environment.

In your experience, how important is the threat of financial penalties against the Government for not following the rules? On the one hand, you say that it is mandatory, but they have not done much so far over the years. The impression is that they are pretty lethargic. On the other hand, I have personal experience of the threat of infraction inside government departments, and you try to avoid the infraction by asking the Treasury for the money to do the thing that you are supposed to be infracting against. How important is the threat of fines being levied against the Government in getting the money? After Brexit, after leaving the EU, which is what we are really talking about, that threat will not be there, will it?

Katherine Nield: Yes, that is a real concern. It might be useful for me to highlight that the threat of fines from the CJEU has been a determining factor in the UK Government's approach to air quality planning. Lord Justice Garnham, in his judgment in our second legal case, concluded that the earliest target compliance date set by the UK in its 2015 plan—that is, the year that it was targeting for compliance—was selected to avoid those CJEU infraction proceedings, rather than remedy the problem in the shortest possible time.

While the outcome is rather perverse, it shows that the threat of fines is at the front of the Government's mind. That threat of fines and legal proceedings is an integral element to deterring the Government from

breaking the law with impunity. It is that invaluable backstop that we need to retain after we leave the EU, which is why ClientEarth and a number of other organisations have called for an independent green watchdog that has teeth and is capable of taking the Government to court and maybe eventually imposing fines as well, although we recognise that fines should not act as the one and only means of enforcement. There should be a number of more conciliatory mechanisms to go through before that ultimate end game.

What is worrying is that the recent proposals for that kind of watchdog and governance body lack those teeth. Under current proposals, the body would not have the power to take the Government to court. That is concerning, because we have seen that even with that threat the Government are not doing enough. What will happen if that is taken away? It is likely that ambition will wane quite significantly.

Lord Rooker: I have a brief supplementary question. I do not want to extend the process. In the past, in legislation from these Houses of Parliament, impositions have been placed on officials in various aspects of local government with a duty to report misdemeanours. We want to solve the problem, not levy the fine. You gave the good example of where action was used to avoid the fine rather than solve the problem. What if individual legal obligations were placed on the Ministers concerned with delivering the outcomes that we want, with the threat of sanctions through the courts? Would that be an effective remedy? The Government as a whole can avoid that, but it gives individuals inside the system the strength to deliver on the policy.

Katherine Nield: Yes. That is a really good question. You have to think a bit more creatively about which enforcement mechanisms are effective in bringing about action. A number of my colleagues at ClientEarth have done a lot of comparative analysis looking at different types of enforcement body and watchdog and the powers they have. They have come up with a number of conclusions and recommendations on what would be the most effective in a green watchdog's powers. It is probably not for me to go into that detail now, but it might be useful for me to share that report with Committee Members following this session.

The Chairman: You are very welcome to do that. The Duke of Montrose has a question. I suspect it is a question with a one-sentence answer.

Q10 **The Duke of Montrose:** I should declare that, as a farmer, I have a whole fleet of diesel vehicles, but they never come near a town or urban environment. What impact do you think leaving the EU and the institutions that enforce and police its standards will have on air quality in the UK?

Katherine Nield: You wanted a one-word answer?

The Chairman: We allow one sentence. Even I would be stretched to do one word on that one.

Katherine Nield: I will try to be brief, but I am not promising one sentence. It is clear from what we have been talking about so far that the legislative basis for improvements in air quality, via the Directive, and the governance body that has been able to wield that ultimate backstop of a fine has come from the EU—via the Directive, via the Commission and via the CJEU. If those things are lost once we leave the EU, it could spell bad things for air quality in this country.

As you have heard, the Government have been slippery to date, even in the context of that present regulatory framework. If that is weakened and if that relaxes, ambition to deal with the problem is likely only to wane.

We do not want just to fill in those gaps but to improve on them. The UK should be leading on this issue. In that context, we need a new Clean Air Act fit for the 21st century. We need to tighten up the existing regulatory framework and make sure that it is backed up by a governance body that has teeth.

The Chairman: Good.

Viscount Hanworth: The one word answer was “dire”!

Katherine Nield: Sorry, that was a lot of sentences.

The Chairman: Of course, we also have the 25 Year Environment Plan now, so perhaps you can relax a bit more.

Katherine Nield, thank you very much indeed for your evidence. It has been excellent and given us a really good background. I want to thank you for not trying to answer questions that you do not think you have knowledge of; that happens occasionally.

If there are other things, as you mentioned, that you want to provide as ancillary evidence, we would be very pleased to receive those. I bring this part of the session to an end.

Examination of witnesses

Polly Cook, Mai Jarvis and Marshall Poulton.

Q11 **The Chairman:** Colleagues, we open the second witness panel session of our day’s investigation into the EU air quality Directive. Now we have a local authority view, although I think you heard a lot of the questions from the previous session. I remind Members to declare any interests, which I think we have to do again in this part of the session.

Lord Cameron of Dillington: You only have to do it once in an inquiry.

The Chairman: I will take Lord Cameron’s advice on that. We have normally done it each day in the Committee, so we will not do it for this part of the session. This session is being recorded, and if anything is

inaccurate you have the ability to come back to us.

Perhaps I could start with a general question. Local authorities have been brought into focus through the Government's recent actions on the challenges of air pollution and air quality. My first question will be what you see as local authorities' obligations as regards implementing the EU air quality Directive, but before that, could you briefly introduce yourselves?

Mai Jarvis: I am an environmental quality team manager at Oxford City Council, and I have overseen the Council's work on air quality for the past five years. I have project-managed the Council's plans to introduce a zero-emission zone in the city.

Polly Cook: I am an executive programme manager with Leeds City Council. I became involved with air quality a month before we were named in the national Air Quality Plan as one of the five cities. I have overall responsibility for developing our response to that national Air Quality Plan.

Marshall Poulton: Good morning. I am assistant director (transport) at Newcastle City Council. I have only recently moved to Newcastle, having worked for the bulk of my professional life in Glasgow and Edinburgh. I am responsible for transport policy issues, strategic aspects of transport, traffic, engineering and infrastructure, also covering the portfolio for air quality.

Q12 **The Chairman:** Thank you. Perhaps we could kick off with the first question about the responsibilities of local authorities.

Mai Jarvis: As we heard from ClientEarth earlier, the responsibility with regard to the EU Directive sits with the Secretary of State for Environment, Food and Rural Affairs. We are given responsibility for monitoring and reporting on air quality, which we have to do annually.

Mention was made earlier of the letter that we were sent in 2011¹. That set out local authorities' responsibilities for the implementation of the EU Directive. It also highlighted the fact that fines could be passed down to us. For us, it is about reporting to the Government, it is about monitoring, but it is also about taking action to implement reductions in air pollution around our cities.

Polly Cook: From a Leeds perspective, in the past six or seven months we have been issued with a ministerial direction under environmental legislation to produce a business case by 15 September with our full air quality plan. That is because we were one of the cities to be named in the first wave of five. We have always taken air quality very seriously in the city. We have undertaken lots of actions, but that is where the legal obligation has come in. Only in the past six or seven months has it been formally passed down.

¹ Note by witness: Ms Jarvis subsequently requested to correct the record – the letter was sent in 2014

Marshall Poulton: Similar to Leeds and Oxford, Newcastle has been mandated by the Government. Three authorities—North Tyneside, Newcastle itself and Gateshead—have been identified as having exceedances in nitrogen dioxide. We are very clear that we are subject to ministerial direction with regard to nitrogen dioxide concentrations and we are working on having a plan in place to reduce the concentrations in the shortest possible time. We recently, certainly by the end of March, submitted our strategic outline business case and we are working with the Joint Air Quality Unit to go through the next stages to get the plan and the solution identified by December this year.

The Chairman: Can I explore this a little further? An impression one could get is of the Government having been found guilty of not doing very much and saying, "It's not us, guv. This is really the responsibility of the local authorities. You now get on with this. We've discharged our responsibility at the top. It is now down to you". On the other hand, you could say that it has been quite obvious in the legislation that local authorities are responsible for this and have been a significant part of the problem in not really rising to the challenge. How would you see either of those scenarios?

Polly Cook: When we were first named back in 2015, there was a real contradiction between what we were told our non-compliance was at a national level and what we were looking at at a local level. It was to do with the way it was taken into law. We were working under the Air Quality Management Areas system. There was a difference, because we were looking at where there was long-term exposure and we took that to be where there were residential properties, whereas the 2015 Plan has taken long-term exposure to be public exposure generally—for example, even if somebody is walking past a street.

In the EU legislation, there are two standards of air quality: an annual limit and an hourly limit. Leeds does not breach the hourly limit anywhere. London does, but Leeds does not. We have always focused on where there is that long-term exposure risk. That is why I think there has been a difference, because we have declared Air Quality Management Areas. Six of them have been revoked. On some of them, we have taken specific action. So there had been action, but it was not necessarily action that matched what we were then asked to do in the 2015 Plan. There was a difference in interpretation in the way it had originally been passed down to local authorities.

Mai Jarvis: Your first question was about whether, as local authorities, we feel that we have been passed all the responsibility by the Government. Our, or at least my, experience of working on it for the past five years is that it has been quite frustrating at times. We set up a Low Emission Zone in Oxford in 2014. We were only the second city outside London to do that. At the time, we were left very much to our own devices to come up with what a Low Emission Zone should look like. At that point, we called for national leadership because we could see a situation where a vehicle would travel into London and being met with

certain emission restrictions; it would go to Oxford and be met with different restrictions. There was no leadership on it.

The introduction of Clean Air Zones will hopefully start to solve that issue. It seems that the Government have stepped up to that challenge, but we are still left with lots of issues to deal with locally. We have been told that it is a local issue for us to deal with, but for a lot of it we do not have the powers. I mentioned the Zero Emission Zone in Oxford, and of course we are going a step further, but we are finding that we do not have the legal powers essentially to do exactly what we need to do. We are working with government on exploring what we can do.

The Chairman: We will come on to the detail of that with one of my colleagues, who will ask about barriers, but it is a good point to make.

Marshall Poulton: To answer your first question, Lord Chairman, I think we are all in it together. We have to look to central government for the leadership, with local authorities then working together to identify the problems, come up with options and solutions, and drive that forward.

Certainly, in some of my background reading before coming to Newcastle, I learnt that since 1990 there had been nitrogen dioxide emissions of the order of 2,000 kilotonnes. By 2015, that figure was down to 670 kilotonnes. There has been a massive reduction in nitrogen dioxide emissions, which is predominantly down to the transport sector.

However, we still have our challenges where there are exceedances on local roads, in city centres et cetera, and we have to do more. Again, I would echo what Mai said about the up legal powers that are missing at this moment. Perhaps we can answer that later.

Viscount Hanworth: I am not sure that this comes under the rubric of barriers to implementation, but can you say something about the cost of implementing a Clean Air Zone? There are legal impediments, but I presume there are financial ones as well.

The Chairman: Viscount Hanworth, I think you are right, but we can come to that under the question about barriers. We will try to keep this segmented.

If you cast your mind back to 2010, when this should have been implemented, was there any pressure at that point from government, or has it all been panic after that date? What was the situation in 2010? Was there any involvement at that time in a similar way?

Polly Cook: It was pre my involvement with air quality, but colleagues who have worked in the field longer than me say that there was not that sort of focus on it.

Mai Jarvis: It was pre my involvement, too. What I have seen in my time is the infraction proceedings, which were started in 2014. At that point, we did see a step-up in engagement.

Marshall Poulton: I echo those sentiments. It was pre my involvement in Newcastle City Council. At the time, I was working for Glasgow City Council. We were aware of the issues and the possibility of infraction. At that time, we were not looking at any form of Clean Air Zone or charging policy. The focus was more on sustainable transport methods, walking, cycling and active travel.

The Chairman: That is an interesting point.

Viscount Ullswater: I am interested in the technology of measuring. Is that standard across all areas in Great Britain?

Mai Jarvis: There is a monitoring standard across the whole country that sets out how local authorities can monitor. It is only accepted by Defra if we use diffusion tubes, which is very low-tech. It is basically a little plastic tube that you expose for a month. At the other end of the scale, the other approved way of monitoring is very big, very expensive automatic monitoring stations that give continuous data. They are a part of a network that Defra maintains across the country.

Marshall Poulton: In our three local authority areas where exceedances have been identified, we have 10 automatic monitoring sites. There are effectively three sites in each of the authorities, with one being the additional, Defra-operated automatic urban and rural network site. With the type of equipment that Mai described, all our sites monitor nitrogen dioxide levels, while eight of them focus on particulate matter.

Baroness Sheehan: This is a question I asked Katie earlier. What discretion do local authorities have about where they place the monitors? Is there a set level of traffic congestion, a certain height above the road and distance from cars? Is that all prescribed?

Mai Jarvis: Yes, there is discretion on local authorities. As district authorities, we are asked to monitor and report on air quality. We are not told how many places we have to monitor. You can have one city that monitors in two places, and you might have a city that monitors in 200 places. That is down to the local authority to decide. When it comes to the specific location and how far you are from a road, that is all dictated. There is guidance saying that it has to be a certain meterage from kerbsides, major junctions and so on. We have guidance on that, but not on where or how many places to monitor.

Q13 **The Duke of Montrose:** In your experience, to what extent have local authorities been successful in implementing the Directive?

Polly Cook: It is early days. We believe that we have a compliant air quality plan. It will go public next Tuesday. It has already been consulted on once. We believe that it is a feasible plan that will deliver air quality compliance in the city.

There are some dependencies at a national level that we require in order for it to be successful, but having that local knowledge and being able to model and really understand your city has been helpful. The national

model has some issues with it, just because of its nature and because it covers such a wide area. Doing some of that work at a local level has its benefits, but it needs the national overarching policies to support it.

Marshall Poulton: From a Newcastle perspective, notwithstanding the air quality Directive and maybe in parallel with that, we have been quite ambitious in having a vision in our policy documents to be one of the cleanest, greenest and most innovative cities in northern Europe by the year 2030.

With regard to clean and green, we were successful in getting £16 million from the cycling ambition fund—again, it was with the help of the Government. We have already spent £13 million of that, and we have £3 million left to spend over the next couple of years.

Likewise, we have invested heavily in intelligent transport systems to get traffic moving more freely through junctions. Allusion was made earlier to stop-start situations, which can lead to an increase in exceedances. We think that we have been quite successful in moving forward.

The Chairman: Have any of your indicators started to come down? What is the reality? Is the situation getting better?

Mai Jarvis: It is much better. It has been happening for a long time, but it has just not happened fast enough. In Oxford, we have seen reductions in levels of NO₂ of more 35% during the past 10 years, and we have seen further reductions this year. It is definitely a downward trend. I think that is the case nationally.

Marshall Poulton: It is down in our authorities as well. The exceedances that have been breached have only just been breached and no more, so it is definitely coming down.

Lord Cameron of Dillington: In terms of shared responsibilities on the ground, do you do spot checks on vehicles coming into your Clean Air Zones? Do the police help you with this, or do your traffic authorities do it? If you ban them, how do you check on the banning? What are the practicalities of getting rid of the polluters?

Polly Cook: In the Clean Air Zone that we are proposing, which comes under the national framework for Clean Air Zones, no vehicle would be banned. Basically, we will use ANPR cameras to identify whether a car or lorry is compliant. That is dependent on the Government having developed the DVLA database to be able to recognise Euro standards.

I think that on-the-ground checks on vehicles are done, but more in London. It is not widespread at the moment. Again, it is something that we would call to be done at a national level to make sure that vehicles are doing what they say on the tin. A lot of research has been done to show that vehicles, especially cars, are still not performing as well as they should at Euro 6. Again, that needs to be done at a national level, because it is not a local problem; it is across all manufacturers.

Lord Cameron of Dillington: But if a non-compliant vehicle enters a Clean Air Zone, what do you do?

Polly Cook: There is no fine, there is a charge, so it is similar to the Dartford toll in the sense that you proactively have to go on and pay. The Government are developing a national payment portal for any charging Clean Air Zone that is set up across in the country.

Lord Krebs: One notices in some other European countries that quite a few cities and towns are completely traffic free; they are completely pedestrianised. That is much less common in this country. Would any of you like to comment on why, in aiming to improve air quality, you do not make the centres of your cities completely traffic free?

Marshall Poulton: Certainly in Newcastle we are fortunate to have the Great Exhibition of the North this year, which starts at the end of this month and runs through to September. We will trial the closure of one of the main roads in addition to the main north-south route. If that proves to be successful, we will look to pedestrianise the city centre more or less in the way you suggest other European cities do.

That does not come without its challenges. There are likely to be objections from bus operators and taxi companies. I think the jury is out as to whether businesses, small or large, would find that of use. However, we have identified the city centre as one area where the nitrogen dioxide exceedances are being breached. That has not been highlighted to us as part of the Defra aspects, so we have identified it ourselves. It is one of the areas that we want to tackle.

Mai Jarvis: I am originally from Denmark, and cycling and walking are prevalent there, especially cycling. One thing that is very difficult, at least in Oxford, is that we are dealing with an historic city and a network of roads that are very old. Of course, if we just pedestrianise the city centre, people will need another method of getting around, so a great deal of investment is needed to get our cycling infrastructure in particular up to scratch so that people have a safe alternative to the car.

The Duke of Montrose: In a Ministerial Statement the other day, we were told that £450 million would be given to local authorities. Has this been allocated to the authorities? Are you expecting more?

Polly Cook: There is £220 million to mitigate the economic impact across all 28 cities that have been identified, and £255 million for implementation such as implementing the camera network. Some of the £255 million will also be used to develop the national payment portal that we mentioned earlier.

It has already funded some of the feasibility studies that have been allocated to different authorities, so some money has been allocated. In certain authorities you could bid for up to £3 million to take early measures. None of the £220-million Clear Air Fund has been allocated yet. That is what you have to bid for through your full business case, so when we submit in September we will have an ask for that fund to help to

mitigate the economic impact on businesses. We did our consultation earlier this year, and it has become very, very obvious that the affordability, for people to be able to upgrade some of their vehicles, will end up putting businesses under, so we are working very closely with government to try to ensure that the funding package is sufficient in order to avoid that detrimental economic impact on the city.

Baroness Sheehan: My question is about 20-miles-per-hour zones as opposed to limits. As I understand it, local authorities have it within their power to put those in place. When you looked at improving air quality, did you look at 20-miles-per-hour zones?

Mai Jarvis: We have not looked at them in Oxford as a specific measure to combat air pollution. We have introduced 20-mile-an-hour zones but more for public amenity and safety, not specifically for air pollution control.

Polly Cook: It is similar in Leeds. We have a lot of 20-miles-per-hour zones, and when we did the consultation a lot of people asked us to take them out, because your perfect air quality point on the speed curve is faster than 20 miles per hour. It is about balancing everything: road safety, noise and air quality. We do not see it solving the problem on its own, and we already have quite a few of them in place.

Marshall Poulton: Likewise. 20-mile-an-hour zones and limits tend to be in communities, and they are mostly a safety aspect rather than an air quality aspect. They are in and around schools, et cetera. In the city centre, there is a 30-mile-per-hour restriction, but we are going to model what a 20-mile-an-hour limit would mean to the city businesses and the economy at large.

Baroness Sheehan: There is quite a lot of work out there suggesting that they do help air quality, because they smooth out the traffic, as you said, and they reduce the stop-starts, and they reduce people accelerating up to a bump because they do not include bumps; bumps are removed. They take away accelerating up to a bump, slamming on the brakes as you go over them and accelerating away.

Mai Jarvis: In Oxford, we decided to focus on moving the vehicle fleet into a cleaner vehicle fleet, so rather than, as you say, keeping people in their polluting cars and just making them drive more slowly we are putting a lot of focus into working with our communities and businesses to change the fleets to become cleaner.

Baroness Sheehan: Indeed, but we are talking about particulates, which is about braking and accelerating.

Mai Jarvis: It is, yes.

Marshall Poulton: It is a very pertinent point. A lot of cities—certainly I have been doing this in Newcastle—have been promoting intelligent transport systems and looking at traffic-signal linking to try to achieve the goal that you are talking about: the smoother flow of traffic; less

braking, stopping and starting; red lights; brake lights coming on. That is what I would call the domino effect. It certainly leads to nitrogen dioxide emissions and PM emissions going up. Smoother traffic flow is key.

- Q14 **Lord Krebs:** My question is about barriers to implementation, which we began to touch on in Mai Jarvis's comment about Oxford not having the legal powers to implement their plans.

Could you in turn elaborate a little on the barriers to implementation, and as part of that tell us what further action, if any, is needed from the UK Government to achieve compliance with the Directive?

Polly Cook: The fundamental barrier is the funding. We have mentioned the quantity of the funding, but for every pot we have had to submit a different bid and go through a different proposal; there is a resource requirement to manage that. Then there is uncertainty about the funding. We had to go out to consult from January to March and we are going out to consult again, and it is very difficult consulting businesses when you do not know what package you are going to be able to offer. The actual funding process funding is very difficult to manage in that environment.

One big barrier is that a lot of money has been put into retrofitting buses to bring them up to the Euro 6 standard. All the retrofit manufacturers have focused all their efforts on getting a solution ready, tested and approved for buses, which means that, as people start to bring through their Clean Air Zone solutions, no solution is available for HGVs or coaches. Some of these businesses are currently buying HGVs for about £10,000. A replacement vehicle could cost £80,000 upwards depending on the specialism.

That gap is insurmountable, so a retrofit solution is absolutely critical. The retrofit suppliers are now starting to think that there might be some funding that comes from the £220 million, as local authorities individually apply for it, but that does not give enough push to the market. With the buses, there was a national Clean Bus Fund. Something along those lines for coaches and HGVs is absolutely critical. We can bring Clean Air Zones in, but for people to make the changes in their vehicles without retrofit is going to be really, really difficult.

Another barrier is the capacity of the market generally. We will have this push for Clean Air Zones, so lots of different cities and locations will suddenly put these standards in, and we are not sure that the market will be able to cope in terms of new Euro 6 vehicles that are compliant or with providing the retrofit solution. Even as a council we have found that when we try to order electric vans. We placed an order for a further 51 and it has taken six months to come through. I spoke to another supplier who has ordered 25; that has taken six months. There is just not that drive yet in the manufacturing market. We can try to influence, but, again, that is more of a national issue.

It is also about some of the practicalities behind the scenes. We have been talking about Clean Air Zones with Government for the past couple of years but we're still at the stage where the national payment portal

was conceived only just before Christmas, so that is not developed. We are looking to go live in the next 15 or 16 months. The DVLA database is meant to be being updated. Lots of practicalities need to happen. A national database for taxi and private hire is in the first level of a Clean Air Zone, yet there is no way nationally to identify which vehicles are taxi and private hire without creating that database. The signage has not been released. We are being asked to meet a deadline of 15 September, when we will have to have costed up everything, but a lot of the input data that we need is still not available. We are continuing to work on that basis, but lots of practical things need to start happening more quickly.

Lord Krebs: What about the point about legal powers that you referred to earlier?

Mai Jarvis: Yes, that is important and we have called for it for a long time. Obviously London is in a different position and has slightly different powers from the rest of us. In Oxford, we are trying to do something slightly different, because we feel that it is the right decision. We have not gone down the Clean Air Zone charging route, because we did not want people to be able to pay to pollute. We wanted to work with people to get their fleets as clean as they could.

The legislation does not facilitate that at the moment. We found a big issue with the light electric commercial vehicles on the market now. It relates to the payload allowed on your driving licence and the Government have had a recent public consultation on this issue. The issue is that when you have a commercial vehicle that needs to be able to carry tools and so on, as soon as you make that into an electric vehicle the vehicle becomes heavier. Hence, the ability to carry tools is reduced because it is taken out of the rest of the payload. We were saying to people, "You need to buy an electric van to do your business". Actually, there are no vans on the market because of this payload issue. Until the Government change the rules on this, the manufacturers will not make the clean vans that people need.

We have been installing quite a lot of electrical infrastructure in Oxford. We are sometimes up against an issue whereby the electrical infrastructure that feeds Oxford as a whole is not capable of dealing with a huge amount of electric vehicles coming on to the market. That is a national issue. It has been identified at a national level, but we need to make sure that, for this revolution that we are all working towards, of zero-emission vehicles, our electrical infrastructure can deal with it. Currently, it cannot.

Marshall Poulton: I would cover the answer by splitting it into three: funding, resources and legal powers. I think Polly has covered the funding and resources aspect.

With regard to legal powers, more could be done to alter existing legislation. Full implementation of Part 6 of the Traffic Management Act 2004 would allow local authorities to enforce moving traffic violations.

Currently, only the police can do that, but they have stresses, strains and challenges on their own budget. That is one area that we feel could help.

The other aspect in the current legislation is around no idling zones. The legislation is a bit weak here. Under the current interpretation of an idling vehicle, penalty issues are not able to be issued without first warning the driver. In effect, what that means in practice is drivers simply turn off their engines when the enforcement officer turns up and the zone is effectively impossible to enforce.

Another aspect relates to bus lane enforcement and how the monies are recycled into the system through the Highways Act 1980. One thing I am keen to bring about is behavioural change: to get more drivers out of their cars. One issue—I do not know whether my colleagues share this—is that about 80% of the cars that come into Newcastle city centre every day are single-occupancy. We need in transport the equivalent of a David Attenborough moment for plastic in the oceans. We need to get this across to the travelling public. To that extent, I would like to see money made available for behaviour change. At present, bus lane enforcement is seen as highway improvement, so we cannot use that into the softer measures of trying to get that behavioural change among the travelling public.

Viscount Hanworth: Most of what I was thinking about has been answered rather well, but perhaps I could ask about the resistance of businesses to pedestrianisation. Polly Cook talked of a fund to mitigate the economic impact on businesses. What exactly is that and what problems are you facing?

Polly Cook: It is more about businesses that have to upgrade their vehicles, for example a coach company running vehicles that would not be compliant with the Euro standard. They would have to bring forward their replacement programme. Normally, a bus company or a coach company would operate their vehicle for 10 years. In effect, they are being given two years' notice. It is that financial impact.

The focus will be primarily on businesses where there is a direct impact. We recognise that there will be businesses where there is an indirect impact. If their supply chain or customer base is impacted, they might choose to go somewhere where there is no charging Clean Air Zone and their non-compliant vehicle could then travel. We are looking at ways to help mitigate the impact on those businesses as well.

Viscount Hanworth: Can you say anything about the typical resistance of businesses within the city centre that may want to militate against a pedestrian zone?

Polly Cook: It was not so much about the pedestrian zone but about a charging Clean Air Zone. I do not know that they are necessarily resistant to it. I think they are resistant to the financial impact, in the sense that some smaller businesses feel that it will put them out of business. Everyone we have spoken to wants clean air. They and their children live

in the city. Everybody is behind the objective, but if it means that they lose their business or job, they are less supportive. If we can provide the right funding, we will have a proposal that people in the city will buy into. The challenge is that we do not know the size of the funding package. We have put in bids, but they will not be approved until September, by which point we will be approving a Zone. People are being asked to respond to a consultation not knowing what funding is available to them. Obviously, that skews your answer to the question. If somebody told me that I could retrofit my lorry and you are going to give me the money to do that, it does not really have an impact but my air is cleaner. That is different from, "You've got to find a way to get yourself compliant". That is the challenge in where we are at the moment.

Viscount Hanworth: So the popular support seems to be a bit more favourable than I imagined.

Polly Cook: Yes. It is not without its challenges, but if the right funding packages were there, the support would be much stronger.

The Chairman: The Duke of Montrose has a supplementary question. There are a couple of things I want to round up on, and then we will finish.

The Duke of Montrose: On Marshall Poulton's comments about single-occupancy vehicles, is there not still a problem with insurance cover when you start sharing vehicles? The insurance companies are looking after themselves, but they may not be looking after the whole question of traffic management.

Marshall Poulton: I am not an expert on insurance companies, but with the amount ride-sharing and car-sharing happening nowadays I think you are right that there was a little reluctance on the part of insurance companies at the start, but the position is not the same now. But I am not an expert in that field.

The Duke of Montrose: It could be something to flag up.

The Chairman: We have talked almost exclusively about vehicles. In the old days, air quality was all about industrial emissions—I know there are a whole load of other Directives on industrial emissions—but we have in a London a study showing that wood burning stoves are one of the biggest producers of particulates. Is there anything you need to tell us about the non-vehicle clean air issues in your cities, or is that agenda just not relevant?

Mai Jarvis: That highlights an important issue, which is about what we are focusing on as local authorities because we have been tasked with it. What we are tasked with in law is mainly to focus on nitrogen dioxide. There is also a measure for particulate matter of the size of 10micrometres, but there is no legal limit for particulate matter of 2.5micrometres, which is actually the most dangerous kind. When there is a legal imperative on us to deal with it, we will focus on where we are told to focus.

In Oxford, 75% of nitrogen dioxide comes from transport. That is why there is a big focus on that. Of course, the evidence of the health impacts of particulate matter is mounting. There is a huge opportunity now for the Government to look at what happens when we leave the EU. So far, we have adopted EU standards, but we now have a lot more evidence from the WHO showing that the legal limits that we have are not safe limits. We are all working towards a legal limit, but it is not safe for people. We should focus on what is safe for people moving around our streets. That might change whether we focus solely on transport.

Marshall Poulton: That is a very good point, Lord Chairman. The North East does not have the luxury of having the longest life expectancy in England. Newcastle City Council is of the belief that the biggest health burden of air quality is from long-term exposure to pollution. It could be wood burning or PM10s, PM5s or PM2.5s from brakes or otherwise, but we think this is a bigger problem for public health than has been understood from focusing on just the higher levels of poor air quality, which was the emphasis of the EU Directive.

The Chairman: So we are saying that there is a real bias in policy implementation at local level towards NO₂ because of the way this system has worked.

Polly Cook: In Leeds, we meet the current standards for PM10. We are not breaching that, but we are also almost at the point where we are reaching World Health Organization standards for PM. Although we are being led by the policy, the data shows that we have more of an issue with NO₂ at the moment than with PM. The caveat is that we monitor more widely for NO₂, but we also monitor a couple of Defra stations right in the city centre for PM. We are almost at World Health Organization standards.

The Chairman: Can I just a view, as I think it is important to put this in context; it may an unfair question. On the agendas of your local authorities, where you have adult social care, affordable housing and all those issues, does this one figure at all?

Polly Cook: Yes, the leadership has been really strong. We have cross-party support. From an officer/director level, the leadership has been fantastic; it has been cross-council. It cuts across every single directorate. There has been absolute buy-in and regular briefings on the member side as well. We have cross-party working groups. That has been the case pretty much since I became involved in 2015. There is absolute political support and officer support at all levels.

Marshall Poulton: I would go along with that. The Cabinet member I report to has made it clear that this is, if not the top priority, certainly up there with the other priorities you mention.

Mai Jarvis: We are in a slightly different position in Oxford in that we are a two-tier authority; I think the other two councils are both unitaries. That, again, is one of the barriers to implementation, or it has been in the

past. It is us as a district authority who are charged with monitoring and reporting, but we do not hold any of the powers to do anything. Those lie with the transport authority, which in Oxford's case is Oxfordshire County Council. That leads to some issues where you need the two councils to work closely together. We are in a place where we are doing that, so we are very lucky, but, as you can imagine, when not everyone is sitting in the same authority it can be quite challenging.

Q15 **The Chairman:** Finally, can you give me one thing you would like to change that would achieve what we need to achieve here? What is the most important thing?

Marshall Poulton: The legal powers: looking at existing legislation and how we can alter it to make a difference to roads and, particularly in our case, local roads.

Polly Cook: Certainty and scale of funding. A significant enough pot to help mitigate that economic impact.

Mai Jarvis: For me, it is national leadership and the Government doing the things they can do, such as scrappage schemes, changing Vehicle Excise Duty and so on, and not leaving it to local authorities to implement.

The Chairman: Okay, thank you very much indeed. It was very good to hear from local authorities; it is an area that we do not often get into. We very much appreciate your coming all the way you have to go through this with us. It has given us a good insight. Thank you very much. I bring this public session to an end.