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Dear Neil,

Thank you for your correspondence of 07 January 2021, in which you asked supplementary questions with regard to your inquiry into Air Quality. I acknowledge receipt of this correspondence from the EFRA clerk and I am replying as the Minister responsible for this policy area.

### **House of Commons EFRA Committee Air Quality Session Supplementary Questions**

#### ***Q1. Please can an updated timetable be provided on Clean Air Zones? (Q242-243)***

The first two CAZs that have been confirmed as going live will be Bath and North East Somerset (BANES) on 15 March and Birmingham on 1 June. We continue to work with the following Local Authorities to confirm their CAZs will go live in late 2021 / early 2022; Bristol, Tyneside, Sheffield, Bradford, Greater Manchester and Portsmouth. Liverpool's CAZ is expected to be launched in 2023. Where CAZs are being implemented, they are being delivered as quickly as possible. In order to ensure this, JAQU works in partnership with Local Authorities to agree a detailed implementation timetable once a final business case has been approved.

#### ***Q2. Please provide information on the guidance relating to air quality and planning new developments? (Q277-279)***

Existing Air Quality Planning Practice Guidance ensures that consideration of air quality issues at the plan-making stage takes a strategic approach to secure net improvements in overall air quality where possible. It also stresses the importance of taking air quality management areas, and Clean Air Zones, into account.

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. It makes clear that planning policies and decisions should contribute to and enhance the natural and local environment. The Framework states that: "Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-

making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”

- Link to our Planning Practice Guidance on air quality is: <https://www.gov.uk/guidance/air-quality--3>
- Link to the NPPF chapter is: <https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment>

Consultation on the Planning for the Future White Paper closed on October 2020. The White Paper sets out our ambitious plans for reform of the planning system. More detail is required on some of the proposals, and MHCLG is undertaking further detailed policy development on the individual elements. No decisions have been made on the details at this stage.

The Planning for the Future White Paper sets out our commitment to protect our natural environment, supporting net gains for biodiversity and progressing our efforts to address climate change.

Officials across Whitehall, including DfT and Defra, will have the opportunity to feed in as appropriate, including on any relevant improvements in the area of air quality.

***Q3. Please provide information on the issue of working from home and reduced travel and the benefits for air quality and whether this is something the Government supports as part of its clean air policy? (Q287-288)***

It is not possible to give a definite answer on whether homeworking should be encouraged because, as we've found through our evidence gathering since the start of Covid-19, the picture is complex from an Air Quality perspective. Furthermore, the decisions around homeworking cannot solely be made based on Air Quality as there are wider considerations. However, we will continue to work with BEIS as the evidence develops to consider the best approach to this issue.

As a responsible Government, we are monitoring the impact on air pollution as a result of the unprecedented changes in behaviour during COVID-19. There has been an increase in home working which is likely to have contributed to some air quality benefits, particularly around roadside NO2 concentrations, that have resulted from reduced road transport emissions. However, homeworking is likely to change other emission sources, such as domestic energy use over the winter period, and so we continue to assess the impacts as the pandemic response evolves.

The Government launched a rapid Call for Evidence in June 2020 to more fully understand the impact that measures introduced to control coronavirus are having on air pollutant emissions, concentrations and exposure, and help drive a green recovery. The Air Quality Expert Group (AQEG) has reviewed responses and published their report on 1st July 2020.

We have seen some reductions in air pollution. On average NO<sub>2</sub> concentrations at the roadside across the UK almost halved (decrease of 47%) during the first lockdown period (23<sup>rd</sup> March – 31<sup>st</sup> May 2020) compared to the 2017-19 average for the same period, although there was considerable local variability. This decrease was largely due to reduced emissions from traffic. Evidence is also emerging that there is an ongoing reduction of traffic at traditional peak hours. We have also seen unprecedented levels of sustainable transport across the UK, including walking and cycling. The Government is encouraging people to think about their choices where possible and, for instance, walk/cycle to school where possible.

Since June, NO<sub>2</sub> concentrations have generally increased as lockdown measures were gradually lifted, and traffic activity increased. In December 2020 roadside NO<sub>2</sub> concentrations remained on average 20% lower than the 2017-2019 three-year average.

Overall, throughout 2020 the average monthly roadside NO<sub>2</sub> concentrations have remained consistently lower than levels observed in the same month for the previous three years, although there continues to be substantial local variability.

The picture on PM<sub>2.5</sub> is more complex with transboundary pollution and meteorology exhibiting a relatively larger influence over UK concentrations of this pollutant. The trends we've seen in PM<sub>2.5</sub> since the start of the coronavirus pandemic are summarised below:

- During the first lockdown (23<sup>rd</sup> March -31<sup>st</sup> May 2020) average concentrations of PM<sub>2.5</sub> measured by our monitoring network at urban locations across the UK were relatively high with a peak in April, consistent with the seasonal trend as indicated by the 2017-19 average. Despite this, average concentrations at urban locations were 17% lower in 2020 during the lockdown period compared to the 2017-2019 average over the same period. However, there was substantial local variability, with several sites reporting increases in PM<sub>2.5</sub> concentrations over the period. The AQEG Call for Evidence showed that during this time, locations where higher concentrations were observed showed a strong influence of transboundary sources. Therefore, when considering the UK average, it is likely that additional PM arriving from continental Europe, caused by a prevalence of easterly winds, contributed to counteract any major decreases in PM<sub>2.5</sub> concentrations due to coronavirus-related restrictions to polluting activities during the first lockdown.
- In the months following the first lockdown, average PM<sub>2.5</sub> concentrations at urban locations across the UK remained relatively low and below, or very close to, the 2017-19 average until November.
- Average urban PM<sub>2.5</sub> concentrations in the month of November increased by 8% compared to the 2017-2019 average for that month, despite the UK entering a second lockdown until the 2<sup>nd</sup> of December. However, as indicated by the 2017-19 average, a peak in UK PM<sub>2.5</sub> concentrations is typical in November. With the onset of colder weather, increases in activities such as domestic burning are likely to be a significant contributing factor to increases in PM concentrations during winter months, particularly with the prevalence of homeworking in 2020. In December, average PM<sub>2.5</sub> concentrations at urban locations across the UK fell below the 2017-2019 average.

The policies around home working practices principally sit with BEIS and we will continue to liaise with them on their flexible working project (which includes home working). Flexible working has been, and continues to be, important in helping people facing the challenges of working during the Covid-19 outbreak. Whether it is working from home or changing or reducing hours to accommodate caring or other outside work responsibilities, the pandemic has demanded a large uptick in the extent of flexible working.

The Government has published guidance on gov.uk on how to work safely during the Covid-19 pandemic, which has significantly increased the number of people working from home. In April 2020, nearly half (47%) of people in employment did at least some of their work at home. This compares to 11% prior to the pandemic. Many organisations now know that remote working can work in roles where previously this might not have been considered possible. Early indications are that some organisations are considering more permanent moves towards home/office “hybrid” working, where individuals split their working days between the office and their homes, which could benefit many individuals.

Homeworking has clearly been a positive experience for some workers and their employers – and, as more choice over where people work becomes possible in the future, we should seek to take forward the best of what we have learnt from the pandemic over the last nine or ten months. However, homeworking does not work well for everyone and we should be mindful of that.

The Government wants to make it easier for people to work flexibly and, in the 2019 Conservative Manifesto, committed to further encouraging flexible working by consulting on making it the default unless employers have good reasons not to. We will use the consultation to consider the lessons learned from Covid-19 – both positive and negative – and to consider flexible working in all its forms. It is not just about where people work, but also when they work and the associated number of hours.

***Q4. Is the OEP going to be able to hold the Government to account on air quality, as the European Court and the European system did?***

The OEP will have a broad environmental remit. It includes environmental law which is defined as any domestic legislation that it is mainly concerned with environmental protection (other than an excluded matter). Environmental protection can be broadly summarised as protecting, maintaining or enhancing the natural environment; protecting people from the effects of environmental damage; and monitoring or reporting on these matters. We would expect air quality legislation to fall within the scope of these definitions.

The OEP’s enforcement powers are different from, and will operate more effectively than, those of the European Commission, as it will be able to liaise directly with the public body in question to investigate and resolve alleged serious breaches of environmental law in a more targeted and timely manner.

On environmental review, the OEP has standing to apply for judicial review remedies, such as mandatory and quashing orders, subject to appropriate safeguards, that will work to

ensure compliance with environmental law. The Court of Justice of the EU cannot issue these kinds of remedies to Member States.

The OEP will also be more transparent than the European Commission, as it is required to keep complainants informed about the progress of their case, and to prepare investigation reports which will normally be published. The Commission is under no obligation to prepare a report on an investigation into a complaint or infraction. It does not publish the details of complaints, and only ever publishes brief press statements regarding infraction cases. Our provisions go significantly further in ensuring transparency and facilitating public participation than the opaque systems of the European Commission.

The OEP's statutory roles are set out in the Environment Bill and can only be delivered in full once the necessary legal framework and functions have been established following Royal Assent of the Environment Bill. It is impractical – and would in any case be inappropriate – for an interim, non-statutory team in Defra to undertake all of the same functions as the OEP or to implement them in the same way. The interim arrangements will therefore implement those elements of the OEP's intended functions that the Interim Environmental Governance Secretariat (IEGS) can deliver on a non-statutory basis and without prejudicing the ability of the OEP, once established, to take its own legal decisions. In this context the IEGS will have both a “preparatory” function for the OEP and an interim “delivery” function.

In its preparatory role, the IEGS will create draft documents and processes to hand over for further development and adoption by the OEP. The IEGS will not seek to present any final documents for the OEP in this regard, since of course it will be for the OEP, as an independent legal entity, to adopt and ensure it is satisfied with its own working framework. The intention therefore is to undertake preparatory work on which the OEP can build, rather than leaving it to begin operating from a standing start.

As regards its interim delivery function, the IEGS team will have two main areas of responsibility:

- It will receive and assess complaints submitted by members of the public about alleged failures of public authorities to comply with environmental law. The secretariat will check the complaints against the criteria specified in the Environment Bill to determine if they will fall within the remit of possible investigation by the OEP, interacting with the complainants and public authorities in question to gather further information where necessary to determine these facts. It will assess the information received and pass it on to the OEP once established, so that the OEP can determine which complaints to consider further through the exercise of its legal functions including formal investigations and enforcement. As a result, the OEP will be able to use its legal powers to investigate and take enforcement action, where appropriate, against any failures alleged to have occurred since 1 January 2021.
- The interim arrangements will also provide for continuity and handover of the technical work undertaken by the Natural Capital Committee (NCC) and its secretariat in relation to monitoring progress in implementing the 25 Year Environment Plan (25YEP), which

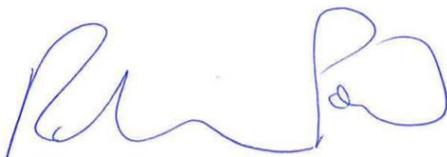
will become the first statutory Environmental Improvement Plan under the Bill. The IEGS will not itself produce any binding conclusions or reports in relation to this function, since this would preempt independent statutory decisions and functions which fall to the OEP. The interim work will, however, ensure that the OEP, once established, is in a position to swiftly produce its first statutory report on the Government's progress against 25YEP implementation as provided for in the Environment Bill.

The secretariat has been able to receive complaints about alleged failures of public authorities to comply with environmental law from the start of this year and will operate until the OEP begins its statutory functions. This interim team will not itself enforce against alleged failures, but rather will process and pass the information received on to the OEP once established. The secretariat will check the complaints against the criteria specified in the Environment Bill to determine if they will fall within the remit of possible investigation by the OEP, interacting with the complainants and public authorities in question to gather further information where necessary to determine these facts. The secretariat will not initiate any formal investigations or enforcement action but may start a dialogue with the relevant government departments or public authorities. As a result, once it has been established, the OEP will be able to use its legal powers to investigate and take enforcement action if necessary, against alleged failures reported to the interim team from 1 January 2021. Any person who initially complains to the interim secretariat will be able to expect that their complaint will later be passed to the OEP, which will be accountable for its own, independent decisions in respect of that complaint.

We are confident that the interim arrangements will ensure the OEP, once established, can hold government to account, including for serious failures to comply with environmental law from 1 January 2021.

Thank you again for your supplementary questions and the opportunity to feed further information into the EFRA inquiry into Air Quality. Please let me know if I can be of any further assistance.

Kind Regards,



**REBECCA POW MP**