

Calderdale Low Emissions Strategy/Air Quality Action Plan Consultation response from Calderdale Friends of the Earth

This consultation response is written by Anthony Rae, who on most days when he's walking around Hebden Bridge - one of the district's air quality management areas (AQMA) - can smell the air pollution which he and all other pedestrians/residents are apparently required to breathe; and he doesn't appreciate that situation one little bit. Over the last decade (and accepting this is a subjective judgement) that situation has not improved; it's worsened.

This is going to be a relatively brief consultation response to these two documents. Calderdale FOE has been campaigning persistently and in great detail over the last five years for air quality (AQ), both in the district and across West Yorkshire and beyond, to be made compliant with the legal standards provided by both the EU Air Quality directive 2008 (meant to be met no later than 2010) and the UK Environment Act 1995 (from which Calderdale's seven AQMA's originate). We have also worked as part of the national AQ campaigns undertaken by Client Earth and Campaign for Better Transport. In Calderdale we've maintained a dialogue with staff and portfolio holders, most recently Cllr Daniel Sutherland: we don't question the sincerity of their expressed wish to respond to these AQ exceedances but that isn't going to be sufficient if the strategic framework within which everyone operates is inadequate.

And this is the reason why paradoxically **Calderdale Friends of the Earth does not support the proposed Low Emissions Strategy (LES)**; because it purports (or appears to believe or represent) that in some way it is a sufficient response to unlawful AQ exceedances, **when in fact it's not**. If a strategy is proposed in order to solve a problem - and in this case a serious one, in that it involves matters of 'life and (premature) death' - and on examination it doesn't, but at the same time maintains the pretence that it will, then that's the worst of cases, in that non-technical audiences and the public will be taken in by the promise whilst at the same time the problem continues unresolved into the future for as long as the ineffectual strategy remains in place. Over the last two years we've warned that we won't support that situation.

The reasons why this argument applies to the Calderdale LES can be concisely stated:

- The objective of the strategy is not focused on demonstrating that it will achieve lawful AQ compliance across both frameworks by mandated dates, as it should. Instead it proceeds by identifying a 'list of measures' (pages 7-12) which it implies without evidence *might* result in improved AQ to an *unquantified* extent *if* they were to be implemented - all hypotheticals. It's not that we disagree with those measures - we don't; we support them - but rather the implication either that they will or can be implemented, and more importantly that they will achieve lawful AQ by a due date. In the case of the EU framework, the Supreme Court first set that date as no later than 2020 and then as 'in the shortest possible time' (and without regard to cost). Since that is the proper test of the strategy - and since the Calderdale LES doesn't demonstrate with evidence that it will achieve compliance in that timescale; it can't, because there isn't any - then it must fail. This is the point we made in our question to Cabinet on 12th February at an earlier stage in the process.

- This situation with the Calderdale LES is not unexpected because it's based, in turn, on the approach of the prior West Yorkshire LES which made the same category mistake about the validity of its strategy framework, about which Calderdale FOE has been repeatedly critical. This is an important finding because so long as that inadequate WY framework remains in place, Calderdale as just one part of it - and however willing or determined its decision/policymakers - will not be able to make any progress. The WY-level problem is not confined just to its mistaken strategic analysis and framework; this is compounded by its failure to challenge the superior national (government) framework which determines the powers and resources which any city region or district needs to ensure its own compliance. The national framework has repeatedly been overturned by the Client Earth Supreme Court cases, but their significance does not appear to have been understood or acted on at the WY level.

In order to try and resolve the logjam between these national/regional/district frameworks - and in the aftermath of the most recent Supreme Court judgement in February which now brought all five West Yorkshire districts within its remit, and therefore increased the

importance of a single co-ordinated WY response - Anthony Rae wrote to the WYCA chief executive Ben Still calling for just that, and then had a discussion with Liz Hunter (WYCA acting head of strategy) on 23rd March to try and diagnose why the critical WY framework - facing both upwards to the national, and downwards to the district frameworks - is not effective. The conclusion he reached - in addition to confirming the above judgement about the multiple weaknesses of the existing WY LES - was that responsibility for effective response to AQ exceedances was falling 'between the WYCA and districts stools', with no one authority/person being responsible for delivery, and being accountable for that.

Immediately after that meeting however, and on checking the wording of policy 7 of the adopted WY transport strategy - *We will work with partners to deliver the West Yorkshire Low Emission Strategy to reduce as far as possible to zero, emissions of CO2, NO2, particulates and noise from transport* - it seemed to be sufficiently clear that this responsibility had in fact been accepted by WYCA, and covered both the EU and 1995 Environment Act frameworks. This has to be the case because the policy sets as its quantified target to reduce the AQ emissions (NO2, particulates) 'as far as possible to zero' - so is applicable to either framework.

Therefore when the report [Air Quality Update](#) (WYCA Transport Committee 25th May) was published on its website, its failure to make any kind of progress on the above issues was deeply disappointing. In consequence I wrote the appended message to the Calderdale representatives on the Transport committee (copy to the committee chair Cllr Keith Wakefield) expressing Calderdale FOE's real dissatisfaction with the report's failure to propose any type of new action, or any strategy approach different to the existing one.

At the committee meeting I heard statements by both Cllrs Wakefield and Deputy chair Cllr Eric Firth (identified as having special responsibility for AQ) which confirmed my diagnosis about the consequences of divided responsibility and the absence of accountable single leadership:

Cllr Wakefield: (despite talking correctly about the absence of leadership nationally from the government) 'West Yorkshire do not have a role in action; it has a role in policy and support and coordination; it's the districts that have the role and responsibilities for action. ... I think we've done, in terms of the constraints, a really good job in bringing things together.'

Cllr Firth: 'As the chair said, we're not actually responsible for doing this; we just collate this and help where we can.'

To Calderdale FOE this brings this particular 'line of investigation' to a conclusion. We are satisfied that **it's the West Yorkshire Combined Authority which has accepted the policy responsibility to take whatever action is required to secure lawful AQ levels - including to challenge government about powers and resources etc should these proved to be inadequate - and yet it's failing to do this, and consequently also failing to secure the implementation of its own policy 7 by providing a sufficiently powerful framework within which individual districts including Calderdale can hope to be successful.** Until this attitude - reflected in the statements of the committee's chair and deputy, which appears to us to be not just complacent and not properly informed, but also out of touch with the realities of the politics around air quality - is changed at the West Yorkshire level, then no Calderdale LES can hope to be successful. **Even if such a change were to take place, it would then take years and years for AQ exceedances across West Yorkshire to be brought within legal standards, and that is the true measure of the failure of the current policy and political approach of the Combined Authority.**

Notwithstanding this we are grateful that - as a result of the message we sent to Calderdale's representatives on the committee - that representations by Cllr Sutherland and council leader Cllr Swift at the meeting got an addition made to the proposed recommendations of the report - the worse than empty (because it implies satisfaction with the current position) *That Transport Committee endorses the activities being delivered to improve transport emissions and supports the need for further collaborative working by the combined authority and partner authorities* - to the effect that there should be some kind of new initiative to examine the effectiveness of the current WY LES approach. We'll now have to wait and see what transpires, and the extent to which voices which challenge that approach can first be heard within that

initiative and then contribute to a change in direction.

We hope the above justifies **our refusal to support the proposed Calderdale LES**. Whatever the merits of some of its individual components, we're not prepared to be complicit in a WY-wide strategy framework that perpetuates AQ exceedances years into the future, with all their consequences. At the recent WYCA Calderdale District committee on 10th April (where we presented arguments to the above effect) views were also expressed by others that the £1b West Yorkshire+ programme of investment and interventions should be strongly directed towards measures which also contribute to the objective of removing AQ exceedances under both frameworks. That's right, and we support this point. It's yet another area where the Combined Authority needs to demonstrate with evidence that its transport strategy is being implemented in an integrated way, and so that it actually achieves its stated objectives, such that stakeholders and the public can have trust in its process.

Relationship between Calderdale LES and its accompanying Air Quality Action Plan

Whilst this relationship is expressed diagrammatically on p.3 of the LES, and Calderdale's existing seven AQMAs are listed in table 2 on page 6, there is otherwise little actionable connection between the two. (Please note: we're not overlooking section 5.2 of the AQAP *Transport infrastructure measures covering AQMAs*, just challenging the absence of an evidenced relationship between such measures and the achievement of lawful AQ levels in each AQMA). At the local level (rather than the WY one we have been criticising above) this is one of the two major weaknesses in these documents; the second is that the AQAP is presented throughout in a format which is technically inaccessible to members of the public, and where the connection between its measurements & proposals and the individual AQMAs is not made. For example we welcome the fact that for the first time the table at 3.4 identifies figures for 'percentage reduction needed' at 12 locations - which range between 6-49% - but these are not linked to an individual AQMA (let alone projected forward to a date when compliance would finally be achieved.). On the number of previous occasions we've pointed to the need to translate technical AQ data measurements into publicly accessible information linked to proposals for action, with which citizens can then engage.

Until these two flaws in the Calderdale process design are corrected then neither council or the public are going to be able to even understand what might be an appropriate basket of interventions - which may well be specific and different in each of the seven individual AQMAs - which can then proceed to be modelled for potential effectiveness; and then designed and resourced; and then actually implemented. Again it's obvious that a systematic process like this will take years, so the sooner it's started the better. At the same time parallel district-wide frameworks such as the Local Plan need to be shaped so that again it can be demonstrated that its long-term but also specific proposals will be contributing to maintaining lawful AQ standards as well as resolving specific exceedances (as in the AQMAs)

Calderdale FOE will be ready to contribute positively to these local processes.

Anthony Rae
Coordinator, Calderdale Friends of the Earth
26th May 2018

Appendix: message from Calderdale FOE to Cllrs Swift, Sutherland & Caffrey-22nd May 2018

WYCA Transport Cttee 25th May item 9: Air Quality Update

Dear Councillors Swift, Sutherland and Caffrey

This report is being considered at WYCA Transport Committee on Friday (which I will be attending), and as you will know Calderdale Friends of the Earth has been making repeated representations at both Calderdale and WY levels about the inadequacy of the framework for securing compliant air quality across West Yorkshire provided by the WY low emission strategy, which then feeds through into Calderdale's own air quality strategies. I also had a detailed discussion on this subject with the report's authors Liz Hunter and Alistair Ryder on

23rd March, where we diagnosed the causes of the continuing failure to secure compliant air quality within *both* the EU and 1995 Environment Act frameworks (from which the AQMAS result). Following that I then took the trouble to prepare and present the attached note on these issues to the WYCA Calderdale district committee on 10th April (but seeing that it sometimes takes up to 6 months for the proceedings of the district committees to be reported to Transport Committee, then whatever is reported in those minutes won't be available to you).

I'd like to make the following comments about the report:

- Overall it's deeply disappointing indeed, and reflects very badly on the Combined Authority and its transport committee. What is the point of representatives of civil society drawing issues to the attention of policy makers and political leaders, and suggesting the need for necessary action within rapidly telescoping timescales and how that could be undertaken, when they are then completely ignored?

- The report contains significant inaccuracies including: 'the European Union requires the UK to reduce dangerous nitrogen dioxide emissions in multiple urban areas to within legal limits by 2020' 2.5 - in fact the due date for legal compliance with the 2008 AQ directive was 2010, with the failure to achieve this then resulting in the repeated Client Earth legal cases and now the EU decision last week to commence legal proceedings against the UK government - and 'The transport sector now represents the largest source of greenhouse gas emissions in the UK - 26% compared with energy (25%)' 2.6 - in fact the DfT's own figures for the total transport sector (including aviation and shipping) was 40% of UK carbon emissions in 2016 - an increase from 36% in just one year - compared to power at 27% *DfT Future of Aviation 2017 and 2018 editions p.61pdf*

- You will see that in the section entitled *Recent West Yorkshire air quality activities* that Calderdale is not mentioned, and that effectively nothing is proposed beyond unspecified 'West Yorkshire level' activity in order to respond to the fact that the district has now been included within the ambit of the Supreme Court judgement 2.8.

- The report is absolutely inadequate in terms of the **action** that it proposes to secure compliant air quality across West Yorkshire. It's not particularly useful to have sections of the report, such as *Travel trends and potential impacts for air quality/carbon emissions* and then *Transport Sector Challenges to a Zero Emission and Clean Energy Future* if these are not then accompanied by proposals as to how to put such analysis into action in the particular circumstances of West Yorkshire, and the particular context of inadequate powers and resources. It contains no discussion of the great difficulty West Yorkshire has in complying with the requirements of the Supreme Court judgement, what sorts of interventions would be required in the specific and different circumstances of each WY district to secure that, and what are the chances of those actually being implemented?

The report's recommendations - that 'Transport Committee endorses the activities being delivered to improve transport emissions and supports the need for further collaborative working by the combined authority and partner authorities' - are meaningless and effectively an evasion of the committee's responsibilities to organise and then secure the implementation of actual measures across all of West Yorkshire to secure compliant and lawful air quality in *both* frameworks: EU and AQMAS. This is what policy 7 of the adopted West Yorkshire Transport Strategy says you will do: 'We will work with partners to deliver the West Yorkshire Low Emission Strategy to reduce as far as possible to zero, emissions of CO₂, NO₂, particulates and noise from transport.' Worse, they appear to want to give the impression that the Combined Authority is taking purposive action to tackle air pollution - which it admits is causing 'approximately 1,000 [to] die prematurely each year in West Yorkshire due to poor air quality' 2.5 - when it is doing no such thing at all.

This protracted, irresponsible institutionalised dithering has to come to an end, and I hope you will be making representations at the committee (I'm copying this message to its chair Cllr Wakefield) to that effect.

Thanks - Anthony Rae
coordinator, Calderdale FOE