Cyswllt Amgylchedd Cymru | Wales Environment Link

Clean Air Bill White Paper

March 2021

Introduction

WEL is pleased to see proposals brought forward for a Clean Air Bill for Wales. Air quality is an increasingly serious issue affecting our ecosystems and wildlife as well as public health. One area that we do feel is missing from proposals in this White Paper is specific action to tackle pollution from ammonia, which is increasing in severity, with 88% of sensitive wildlife habitat experiencing higher nitrogen levels than it can tolerate. We have included some proposals to tackle ammonia pollution in our answers to the consultation.

1. **Do you agree with the proposal to create a requirement within the Bill for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every 5 years? If not, please provide details**
2. **Do you agree with the proposed timescales for the review of the Clean Air Plan or Strategy? If not, please provide detail.**

WEL strongly supports the proposal for a Welsh Clean Air Plan or Strategy to be reviewed and published at least every five years, although we would urge that some elements (such as nitrogen and ammonia levels) may benefit from more regular scrutiny, particularly in the first term of the plan. Communicating progress can also be a key tool for raising awareness and understanding.

3. **Do you agree Welsh Government should introduce a framework to set new air quality targets?**
4. **Do you agree with the proposed air quality target setting framework? If not, please provide evidence to support your answer, if available**

WEL supports the proposal to introduce a framework to get new air quality targets. We also support the intention to exceed EU targets and to meet or exceed the stronger WHO Guidelines (expected revision 2021). However, the proposal could be strengthened in terms of vision and commitment by ensuring that targets for reducing major pollutants are legally binding. This includes nitrogen oxides and more specifically ammonia (NO3).

Binding targets would serve as a catalyst for action, in the same way that statutory recycling targets propelled us to achieve world-ranking recycling rates. WEL believes that binding targets on major pollutants will have a similar effect and will kickstart progress where voluntary efforts have been unsuccessful.

Over half of Wales' total land area receives ammonia concentrations above the critical level set to protect lichens, mosses, liverworts and similar plants – keystone species that are vital to ecosystems and many of which are threatened. Unprecedented concentrations of reactive nitrogen have built up in the atmosphere, mainly due to ammonia emissions (NH3) from intensive farming practices and nitrogen oxide (NOx) emissions from combustion (in transport, industry and other sources). Reactive nitrogen in the air can be deposited close to its source or can travel long distances; this is impacting Wales' wildlife habitats from coastal sand dunes to the tops of our mountains. Ammonia emissions also contribute to the formation of particulate matter, which damages people's health, and are closely linked to emissions of nitrous oxide and methane, both greenhouse gases.

In Wales, 88% of sensitive wildlife habitat has higher nitrogen levels than it can tolerate, upsetting the delicate balance of the ecosystem. A few vigorous plant species (such as nettles and brambles) thrive, but more than two-thirds of wildflowers, as well as many rare and endangered lichen and fungi, are unable to survive in high nitrogen conditions. In extreme cases, concentrated ammonia emissions are causing spectacular lichens such as eyelashes treebeard to be coated in algal slime. More evidence of this can be found in Plantlife's report We Need To Talk About Nitrogen (Welsh Report).

Farming is by far the main source of ammonia emissions – 91% in 2017 – but only an estimated 5% of farm emissions are directly regulated. Voluntary action by the farming sector has not been successful in recent years and statutory interventions are needed for change to occur. This could be integrated with the Control of Agricultural Pollution Regulations 2021.

Although we recognise that the proposed PM2.5 targets would also help to reduce ammonia levels, WEL would urge ammonia to be considered specifically, due to its increasing prevalence and devastating impacts on human and ecosystem health. While NOx emissions are declining, ammonia emissions have risen in recent years.

Strategic links should also be made with policy action on Climate Change and the Decarbonisation agenda. This would not only serve to recognise the contribution of many major pollutants as direct contributors to global warming but would also expand the potential for awareness raising campaigns. These links would also facilitate regular reviews, as air pollution levels can be used as a key indicator for Government across a spectrum of policy areas.

5. Do you agree there is a need to clarify and strengthen legislation? If so, do you agree with the approach outlined?

WEL supports the principle of clarifying and strengthening current legislation and regulations on air quality. We would agree that the proposed approach takes a more proactive and preventative

approach generally towards tackling AQMA's and LAQM, although we note some areas which need further strengthening or clarification (see responses to questions 7 and 8 below).

We would also support consideration of rural/ecological AQMAs/LAQMs specifically to tackle the increasing problem of ammonia pollution from farms. We are clear that specific action to tackle ammonia will be necessary in addition to action focussed on PM2.5 and strongly recommend that targets on this should be introduced at the same time, as there is already evidence to show that this is a serious and growing problem for our ecosystems and public health.

Monitoring and enforcement of progress on this will be essential to drive ammonia levels down. Part of the issue relates to monitoring of farm planning conditions, which is currently falling into a large responsibility gap: NRW states that LPAs are responsible for monitoring compliance with farm planning conditions, and yet LPAs do not have the capacity or (often) expertise to do this job properly. The Welsh Government needs to review this situation and design a solution to ensure that the responsibility for monitoring agricultural pollution is clearly attributed to an authority (our preference would be for this to be NRW's responsibility) and that the responsible body has the resources and expertise in place to do this job properly. We support increasing capacity, training and resources for permitting and advisory staff in NRW and local authorities to implement the regulations.

Furthermore, we feel that there is a missed opportunity in the proposals for this Bill to legislate for some actions that would immediately start to tackle the problem of both ammonia and PM2.5. Examples include:

- mandatory covering of slurry storage tanks and lagoons, as they have done in England, with the potential for capital grants to support their installation if necessary;
- including a target for 20% urban tree coverage;
- lowering the threshold for environmental permits for poultry units from 40,000 birds to 999;
- requiring environmental permits for other emissions sources, particularly large and indoor cattle units; and
- banning splash plates, and requiring appropriate technologies i.e. trailing shoe.

6. **Do you think a mutually agreed compliance date on a case by case basis will help to achieve air quality improvements in AQMAs, in the soonest possible time? Please provide detail.**
7. **How can we ensure the 'partners' concept improves and supports collaboration in improving air quality?**
8. **Will these proposals collectively help to deliver a more proactive and prevention focused LAQM regime?**

In regard to the 'partners' concept, we would agree generally that collaboration is key to supporting efforts to improve air quality. However, we would note that there is already a requirement for collaboration in the Wellbeing of Future Generations (Wales) Act (WFG) with a reduction in NO2

emissions being a key national indicator. This being the case, there is clearly more that needs to be done to foster and incentivise collaboration on this issue.

We would urge in the first instance that key delivery partners are identified as part of local plans and would ask that Welsh Government consider what resources might be required to enhance partnership working. We would also underline the importance of partnership advice and external input into planning permissions, with the recent judicial review of a poultry farm in Powys being a relevant case in point.[1] It is critical that prevention is at the heart of our efforts to tackle air pollution and not an after-thought.

The eNGO sector could support this agenda quite significantly, for instance; environmental improvements and green infrastructure, data gathering and monitoring, local active travel planning and route maintenance, awareness campaigns and communications, advice for planners and expertise on impacts.

Currently however, it is a rare exception that eNGO's have been invited to join discussions on this issue as it is largely considered to be more in the realms of public health or transport and infrastructure. This is reflected in the types of funding available to the third sector to tackle this issue as well and will be a key factor in shaping what form partnerships could take.

Air pollution is diffuse and therefore doesn't respect national borders, so action to tackle air pollution requires a transnational approach. However, there is potential for collaboration across the border with English Authorities in particular, most obviously where there is a shared land border but also in the case of the Severn Estuary authorities where there is a common interest. The issue of the border is an important aspect in partnership working as many key employment hubs are situated in those border authorities and therefore often attract increased congestion.

15. Do you agree with the proposal to transpose Part 3 of the Clean Air Act 1993 (Smoke Control) into Welsh legislation?
16. Are there any other aspects of the Clean Air Act 1993 which you would consider appropriate for inclusion within Welsh legislation?
17. Do you agree changing the enforcement regime from criminal to civil action will assist in improving enforcement?
18. Would you agree in light of the evidence there should be a presumption in favour of Smoke Control, at a minimum in urban areas?

WEL members agree with the proposals to transpose Part 3 of the Clean Air Act 1993 into Welsh Legislation and agree that access to civil sanctions will provide a greater range of tools that can be

[1] https://www.theguardian.com/environment/2021/jan/30/welsh-council-admits-it-should-not-have-approved-vast-poultry-farm

used to improve enforcement. However, criminal penalties must be reserved for serious, intentional and repeat offences.

We agree that the evidence on the impacts of increased domestic burning and particulate matter show that there should be a presumption in favour of Smoke Control, certainly in urban areas where historically, there were terrible issues with air quality up to the 1950s when open fires were even more common. Proposals to ban the most polluting forms of fuel and only allow sale and installation of modern, efficient stoves are sensible and necessary, in rural areas as well as urban.

In recent years, wood burning stoves have been sold on the basis of being the environmentally friendly option/carbon neutral, and a good choice for those wishing to move away from domestic fossil fuel central heating. The air quality impacts of this have been ignored and householders may feel penalised for trying to make the right choice if new rules are not accompanied by clear messaging. Education and guidance on this subject will be important for householders to make informed choices about the most sustainable forms of domestic heating in the future.

Proposals to report on air quality actions applied to all sectors

19. Do you agree with the proposals?

WEL agrees in principle with the proposals that all sectors should report on air quality actions they have taken, though we note some possible practical issues below.

20. What are the advantages/disadvantages of the proposals?

Every sector and organisation affects air quality, whether they own a large manufacturing business that has specific emission challenges or whether they are small charity whose main contribution is the way their staff commute to work. If every sector must report then this could engender a sense of collective action, rather than pointing the finger at particular industries. It keeps action on air quality at the forefront of everyone's mind, making it more likely that action will be taken. Importantly, it could also provide a wealth of data that could help the Welsh Government target action and regulating more effectively, as well as helping to monitor progress.

The disadvantages could be the Welsh Government's capacity to effectively analyse and use the vast wealth of data they will receive. Reporting will also be very different for Tata Steel, for example, than for a small office-based business or charity. Reporting will need to be tailored to the size and impact of organisation if it is not to be overly burdensome on smaller organisations, or too simplistic for organisations with specific emissions challenges. For those with industrial emissions, any current environmental reporting requirements will need to be taken into account.

Finally, asking all sectors to report on their contribution to air quality actions could raise the question about why all sectors are not being asked to do this on greenhouse gas emissions, or on other ways that their sector impacts upon the environment e.g. actions to tackle biodiversity loss.

21. In what other ways or by whom could the guidance be delivered? Please provide detail.
22. What would be best way(s) for stakeholders to report progress to the Welsh Government?

If this proposal is taken forward, we would like to see clear, simple guidance promoted prominently via Welsh Government and NRW websites, Local Authority websites and eNGO partners. Reporting should be made simple, clear and standardised, with an option to submit online or via post. Reporting requirements should be tailored for the size and type of organisation.

23. Do you have any additional points to make?

We would also support monitoring and data analysis to understand the environmental impacts of nitrogen deposition and the benefits of cutting nitrogen emissions, including continuation of Plantlife's CENNAD lichen apprenticeship scheme, the OPAL Air Survey and other citizen science. We would also recommend advancing the delivery of Site Nitrogen Action Plans by facilitating the engagement of local stakeholders including the farming community.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

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