



Overview & Scrutiny Committee

Date	21 November 2017
Report title	The Role of the Combined Authority in Air Quality
Accountable Chief Executive	Deborah Cadman, Chief Executive, West Midlands Combined Authority email: deborah.cadman@wmca.org.uk tel. 0121 214 7552
Accountable Employee	Anne Shaw, Director of Network Resilience Email: Anne.Shaw@tfwm.org.uk Tel: 0121 214 7881
Report to be/has been considered by	Audit, Risk & Assurance Committee on 15 September 2017

Recommendation(s) for action or decision:

The Overview & Scrutiny Committee is recommended to:

1. Note the information in this report regarding the role of the Combined Authority in Air Quality issues.

1.0 Purpose

At its meeting on 15 September, Audit, Risk & Assurance Committee had recommended that Overview & Scrutiny Committee review the area of air quality to ascertain whether there was a policy to support the requirements to improve air quality.

2.0 Background

2.1 Duties and Functions

2.1.1 Duties and functions to improve air quality flow from both EU and UK environmental legislation - which contain discrete air quality objectives that must be met - and UK public health legislation - which requires local authorities to take steps to improve the health of its citizens.

2.2 Environmental Legislation

2.2.1 Requirements for EU member states to improve air quality and meet specific objectives are set out in the EU Ambient Air Quality Directive 2008. As the UK is an EU member state, the Government must report its progress towards achieving air quality objectives to the EU. In the event of breaches of the European objectives, infraction proceedings can be progressed through the EU courts and fines administered.

2.2.2 The UK also has environmental legislation setting out legal requirements to manage air quality. Part IV of the Environment Act 1995 sets out national and local roles and responsibilities in the management of air quality. This includes the requirement of the Government to establish a national air quality strategy and requirements of local authorities to monitor, review and manage air quality.

2.2.3 The Air Quality Standards Regulations 2010 define the UK's air quality objectives and were transcribed into UK law from the 2008 EU Directive.

2.2.4 Regardless of EU membership, the UK's obligations to manage air quality and to achieve air quality objectives are enshrined in domestic legislation. However, dependent on the terms and conditions established for the UK's exit of the EU and its future relations with the EU, the requirement to report progress to the EU and the possibility of infraction proceedings in the EU courts for breaching the EU's air quality legislation is still to be determined.

2.3 Local Air Quality Management

2.3.1 DEFRA is the Government Agency responsible for discharging the national functions related to air quality management. As such, DEFRA is the central Government Agency which coordinates the "Local Air Quality Management (LAQM)" regime. DEFRA issues advice, guidance and tools to local authorities to enable them to carry out their duties to manage air quality. In addition, it is to DEFRA that local authorities report their progress in managing air quality.

- 2.3.2 Through the LAQM system local authorities are required to assess air quality in their area and designate Air Quality Management Areas (AQMA) if improvements are deemed necessary. Where an AQMA is designated, local authorities are required to produce an air quality Action Plan describing the pollution reduction measures it will put in place. Table 1 gives a summary of the current AQMAs in existence in the WMCA area:
- 2.3.3 The constituent authorities employ environmental protection officers who are broadly responsible for discharging the air quality functions of the 1995 Act.

2.4 Table 1: Summary of AQMAs in the West Midlands metropolitan area

Local Authority	AQMA Declared	Description	Pollutants	Date Declared
Birmingham City Council	Yes	Whole district	NO ₂ and PM ₁₀	2005
City of Wolverhampton Council	Yes	Whole district	NO ₂ and PM ₁₀	2005
Coventry City Council	Yes	Whole district	NO ₂	2009
Dudley Metropolitan Borough Council	Yes	Whole district	NO ₂	2007
Sandwell Metropolitan Borough Council	Yes	Whole district	NO ₂	2005
Solihull Metropolitan Borough Council	No	N/A	N/A	N/A
Walsall Metropolitan Borough Council	Yes	Whole district (NO ₂) and a discrete 1.5-2.0 acre area (PM ₁₀)	NO ₂ and PM ₁₀	2006 (NO ₂) and 2008 (PM ₁₀)

2.5 WMCA Amendments and Functions Order

- 2.5.1 By virtue of the WMCA Amendments and Functions Order 2017- "the Mayoral Order" – the mayoral WMCA has the same air quality powers and responsibilities under the 1995 Act as the local authorities currently have. These air quality functions are to be exercised concurrently with the constituent authorities. A Memorandum of Understanding (MOU) is needed to frame the best way to manage discharging these functions. It was proposed that the MoU should be written following discussion with all relevant stakeholders and the appointment of the Mayor.
- 2.5.2 The Mayoral Order could allow constituent authorities to develop a joint AQMA and AQAP that crosses local authority boundaries to be formally declared by the WMCA on their behalf if it is determined appropriate to do so.

- 2.5.3 At this stage the MOU has not yet been completed but this work will be led by a recently appointed, senior member of staff when they take up their responsibilities. As set out above the Constituent and Non-Constituent Authorities have direct responsibility for air quality management within their areas and it is expected that they would remain the bodies best placed to undertake such action due to their local knowledge.
- 2.5.4 The work of the Mayoral Combined Authority is expected to be in areas where cross border or Regional measures appear likely to bring benefits that might not otherwise be realisable. The MOU will govern the manner in which these concurrent powers will be exercised by the Mayor.

2.6 Public Health Legislation

- 2.6.1 The UK's Health and Social Care Act 2012 puts a duty on local authorities to take such steps as considered appropriate to improve the health of citizens and have regard to guidance from the Department of Health's Public Health Outcomes Framework (PHOF) in doing so. The PHOF currently makes provision for the impact of air pollution on health through the inclusion of two indicators, one giving the annual concentration of PM2.5 and the other is the fraction of mortality attributable to fine particulate matter (PM2.5). There is currently no indicator within the PHOF relating to nitrogen dioxide, however, this is likely to be introduced.

3.0 Wider WMCA Implications

- 3.1 As can be seen from the above, Air Quality is an area which is heavily regulated with UK and EU legislation. At a local level all Local Authorities have duties and responsibilities for monitoring and managing Air Quality. The Constituent Authorities have been active in this area already and now the Combined Authority has been given powers to act concurrently with the Authorities to tackle this issue. What this means in practice is that a partnership approach is being adopted. There is no intention to usurp the activities of each local authority who are best placed to tackle issues at their local level. Where the Combined Authority can bring added value is in creating the conditions to enable joint working and a more joined up approach.

Obviously problems such as air quality don't stay neatly within existing Borough boundaries and will affect other areas to a greater or lesser extent depending on conditions.

4.0 Financial implications

- 4.1 No specific financial implications arise from the contents of this report but there are resource implications which would arise if the Mayoral Combined Authority chose to take significant action under its powers. In reality such action may well form part of other programmes and be resourced in that way.

5.0 Legal implications

- 5.1 The broad legal implications are outlined in the body of the report.

6.0 Equalities implications

- 6.1 There are clear links between poor air quality and ill health. Ill – health can lead to a wide range of deprivation and economic disadvantage and areas of housing near major roads and other areas of poor air quality are often occupied by communities already suffering from significant inequalities.

- 6.2 The Combined Authority has clear priorities on improving the health and well being of people in the West Midlands and its powers on air quality may be used to further this objective.

7.0 Other implications

- 7.1 Non applicable to this report.

8.0 Schedule of background papers

- 8.1 None.

9.0 Appendices

None