

TONBRIDGE & MALLING BOROUGH COUNCIL
LOCAL ENVIRONMENTAL MANAGEMENT ADVISORY BOARD

27 May 2014

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 AIR QUALITY UPDATE

Summary

This report provides a summary of the current situation with regards to the Local Air Quality Management (LAQM) regime.

1.1 Background

1.1.1 This report details the current work on air quality being undertaken by the Environmental Protection Team and provides an update on the current situation concerning the ongoing DEFRA Local Air Quality Management review and recent developments on the subject of European Union (EU) fines to the UK for non-compliance with the Air Quality Objectives (Infractions).

1.2 Infractions

1.2.1 On March 6, DEFRA confirmed that the European Commission has formally launched infraction proceedings against the UK for breach of nitrogen dioxide limit values under the EU Air Quality Directive.

1.2.2 This will entail a detailed and lengthy legal process initiated by the European Commission. The current position is that the European Commission has formally written to the UK under article 258 of the Treaty on the Functioning of the EU to initiate the infraction proceedings. The UK has two months to respond to the Commission.

1.2.3 The formal process could take several years to complete. Throughout the process the focus is for all parties to work together to try to ensure compliance as soon as possible. To this end the Commission has stated that it would like "to achieve full compliance with existing air quality standards by 2020 at the latest".

1.2.4 Part 2 of the Localism Act 2011 could be utilised in this scenario by the Government requiring responsible authorities to pay all or part of an infraction fine, which has been imposed. In this scenario it could be passed to local authorities, on the basis that they have responsibility for reviewing and assessing the air quality in its area and working towards achieving the AQ objectives, where they are not currently being met, that is, within AQMAs.

- 1.2.5 In their formal announcement, DEFRA acknowledge that the UK government is responsible for ensuring compliance with EU air quality obligations, although local authorities do play an important role in managing local air quality. Furthermore, DEFRA state that they strongly hope that through cooperative working between the Government, local authorities, the Greater London Authority and the Highways Agency, we will be able to meet the air quality limits, engage with the Commission and avoid the prospect of fines.
- 1.2.6 DEFRA have committed to keeping local authorities updated on all developments concerning the infraction proceedings.

1.3 Review of the Local Air Quality Management (LAQM) regime

- 1.3.1 In the Spring of 2013, DEFRA consulted with local authorities asking whether the requirement for them to produce a 'Further Assessment' report should be repealed. (This report has to be produced within 12 months of an AQMA being declared).
- 1.3.2 DEFRA published its findings to that consultation in April this year in a document entitled "A Strategic Reform Plan for DEFRA's Regulation." The document provides an overview of actions being taken by Government to reduce regulatory burdens on councils and businesses and includes the removal of the requirement for local authorities to carry out Further Assessments in relation to Air Quality Management Areas to supplement information they already have. This report is viewed as an unnecessary burden that impedes the speedy implementation of local action plans. The target date for implementation is 1 April 2015, but this is dependent on the passage of the Deregulation Bill through Parliament.
- 1.3.3 It is anticipated that a further, second stage on the consultation, reviewing the entire LAQM regime, will be published later this year and we will keep Members of this Board informed of the details.

1.4 LAQM Reports

- 1.4.1 DEFRA has confirmed their acceptance of the conclusions of our Annual Progress Report (APR) 2013 and made a number of recommendations relating to future reports, including the Air Quality Action Plan for the Borough Green AQMA, by April 2015.
- 1.4.2 The Annual Progress Report (APR) 2014 and Further Assessment for Borough Green are being prepared for submission to DEFRA.
- 1.4.3 Officers will include a progress update on the existing Air Quality Action Plan within the APR 2014.

1.5 Legal Implication

1.5.1 The Council has a statutory duty to review and assess the local air quality.

1.6 Financial and Value for Money Considerations

1.6.1 All reports will be completed within budget.

1.7 Risk Assessment

1.7.1 The failure of the EPT to meet its statutory obligations could result in criticism from DEFRA and potential financial penalties following completion of the infraction proceedings.

Background papers:

Nil

contact: Jacqui Rands
Mary-Anne Norton

Steve Humphrey
Director of Planning, Housing and Environmental Health