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SUPPLEMENTARY PAPERS

Committee	ENVIRONMENTAL SCRUTINY COMMITTEE
Date and Time of Meeting	TUESDAY, 19 MARCH 2019, 5.00 PM
Venue	COMMITTEE ROOM 4 - COUNTY HALL
Membership	Councillor Patel (Chair) Councillors Derbyshire, Philippa Hill-John, Owen Jones, Lancaster, Jackie Parry, Owen, Wong and Wood

The following papers were marked 'to follow' on the agenda circulated previously

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 13 March 2019

Contact: Graham Porter, 02920 873401, g.porter@cardiff.gov.uk

4 Draft Public Space Protection Order - Control of Dogs (Pages 3 - 16)

An item provide Members with an opportunity to carry out pre-decision scrutiny of the 'Draft Public Space Protection Order – Control of Dogs' prior to it being received by Cabinet.

5 Air Quality - Progress Update (Pages 17 - 46)

An item to provide Members with an air quality progress update. This will assess the work that the Council is currently undertaking to achieve air quality compliance in the 'shortest time possible'.

6 Parking Fines Appeals Policy (Pages 47 - 56)

An item provide Members with an opportunity to carry out pre-decision scrutiny of the 'Parking Fines Appeals Policy' prior to it being received by Cabinet.

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PSPO Dog Control Recommendations

Pre-Decision Scrutiny

Environmental Scrutiny Presentation – 19th March 2019



Gweithio dros Gaerdydd, gweithio gyda'n gilydd
Working for Cardiff, working together



PSPO Dog Control recommendations

1. Cabinet Decision - 12th July 2018
2. Current position
3. Recommendations for PSPO
4. Opportunities to support the PSPO
5. Next steps
6. Time line
7. Recommendations to Cabinet / Council



1. Cabinet Decision – 12th July 2018

Decision.

RESOLVED: that

1. Officers be authorised to undertake a 6 -12 week public consultation exercise on the proposal to introduce a Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce dog controls in areas across the Cardiff and to report back to Cabinet.

2. the consultation for dog control specifically looks at:

- the prohibition of dog fouling in all public places owned and/or maintained by the Council,
- the exclusion of dogs in all enclosed playgrounds, marked sports pitches and Schools, which are owned and/or maintained by Cardiff Council.
- a requirement that dogs are kept on leads within all Cemeteries owned and/or maintained by Cardiff Council.
- a requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary,
- setting the fixed penalty fine for breach of the order to the maximum permitted of £100.

3. the revocation of the current byelaws associated with dog control in Cardiff be endorsed.



2. Current position

- Consultation complete and consultation response report ready for publication on Council Website
- Meetings have taken place with dog groups to discuss support of the recommended PSPO dog controls, how they will be implemented and good dog ownership schemes (Green Dog Walkers)
- Resource identified via parking reserve to deliver signage to support the environmental improvements
- Cabinet Member agreed to pre-decision scrutiny of the recommendations prior to recommendations going to Cabinet and Council



3. Recommendations for PSPO

1. The prohibition of dog fouling in all public spaces owned and/or maintained by the Council
 - This will be promoted by the use of media and dog fouling fine stickers placed on street furniture at key locations of concern
2. The requirement for a dog owner to have a means of clearing dog fouling
 - This will be promoted by the use of media, through dog groups and via a period of education



3. Recommendations for PSPO

3. The exclusion of dogs in all enclosed playgrounds and schools, which are owned and / or maintained by Cardiff Council.

- This will be promoted by the use of signs on all gate to enclosed playgrounds and where schools have indicated they have an issue with dogs on their property

4. The requirement that dogs are kept on a lead within all cemeteries owned and / or maintained by Cardiff Council.

- This will be promoted by the use of signs on all gates to cemeteries



3. Recommendations for PSPO

5. A requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary

- This will be promoted by the use of media, through dog groups and via a period of education

6. The fixed penalty notice charge for a breach of a Public Spaces Protection Order for dog controls, as set out above, is set at £100.

- This will be promoted by the use of media, through dog groups and all signs will identify where information on fines can be found

Note: Service Area will develop an enforcement webpage, including the Cardiff App, where fine levels can be reviewed by citizens.



3. Recommendations for PSPO

7. The dog controls will be exempt for persons who have a disability that affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which the person relies for assistance

- This will be promoted by the use of media, through dog groups and all signs



4. Opportunities to support PSPO

- Cabinet Member quarterly meetings with dog ownership groups to engage on promoting good behaviour
- EqlA aligned by working with Guide Dogs Cymru
- Promotion of 'Green Dog Walkers' through Love Where You Live campaign. License now purchased.



4. Opportunities to support PSPO



6. Time line

- Pre-decision Scrutiny – 19th March 2019
- Cabinet - 21st March 2019
- Council - 28th March 2019
- Legal preparation of PSPO - April – Sept 2019
- Media on new PSPO - Sept to Oct 2019
- Implementation of PSPO signage to support enforcement - Oct 2019



- The prohibition of dog fouling in all public spaces owned and/or maintained by the Council
- The requirement for a dog owner to have a means of clearing dog fouling.
- The exclusion of dogs in all enclosed playgrounds and schools, which are owned and / or maintained by Cardiff Council
- The requirement that dogs are kept on a lead within all cemeteries owned and / or maintained by Cardiff Council
- A requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary
- The fixed penalty notice charge for a breach of a Public Spaces Protection Order for dog controls, as set out above, is set at £100.
- The dog controls will be exempt for persons who have a disability that affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which the person relies for assistance

Questions?



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Update on Clean Air Feasibility Study – Development of a Preferred Option for Outline Business Case Environmental Scrutiny Meeting 19 March 2019



Content

- **Background**
- **Initial Baseline Results**
- **Results of Measures – context in terms of legal ruling**
- **CAZ Benchmarking -**
- **Refined Options for Full Business Case**
- **Engagement Process**
- **Timeline for Full Business Case**



Background

- The 2017 UK Action Plan further challenged by Client Earth and in January 2018 Welsh Government agreed to a legally-binding 'consent order' with Client Earth.
- This resulted in a Legal direction being served on Cardiff Council under Part IV of the Environment Act 1995, Section 85(7).
- Came into force, on **15th February 2018**, and was delivered to Cardiff Council on **09th March 2018** instructing Cardiff to:

“Undertake a feasibility study, to identify the option which will deliver compliance with legal limits for nitrogen dioxide in the area for which the authority is responsible, in the shortest possible time.”

- Cardiff Council are therefore **legally obliged** to introduce measures to mitigate against noncompliance in the **shortest possible time** – it is not a matter of discretion or choice.
- The Council is **obliged to follow a legal process with set deadlines**



The Legal Requirement

Cardiff Council have a legal requirement to complete the following activities by the dates specified:

- **31st March 2018** at the latest submit the **initial scoping proposals** to set out how Cardiff Council would undertake a feasibility study - **Achieved**
- **30th September 2018** at the latest submit the **Initial Plan** to set out the case for change and develop options for measures that the local authority will implement to deliver compliance in the shortest possible time. – **Achieved**
- **30th June 2019** at the latest submit the **Final Plan** to identify in detail the preferred option for delivering compliance in the shortest possible time, including a full business case.
- No date set within the Direction for submission of **Outline Business Case**
- **However**, OBC is crucial step in developing Final Business Case for Final Plan

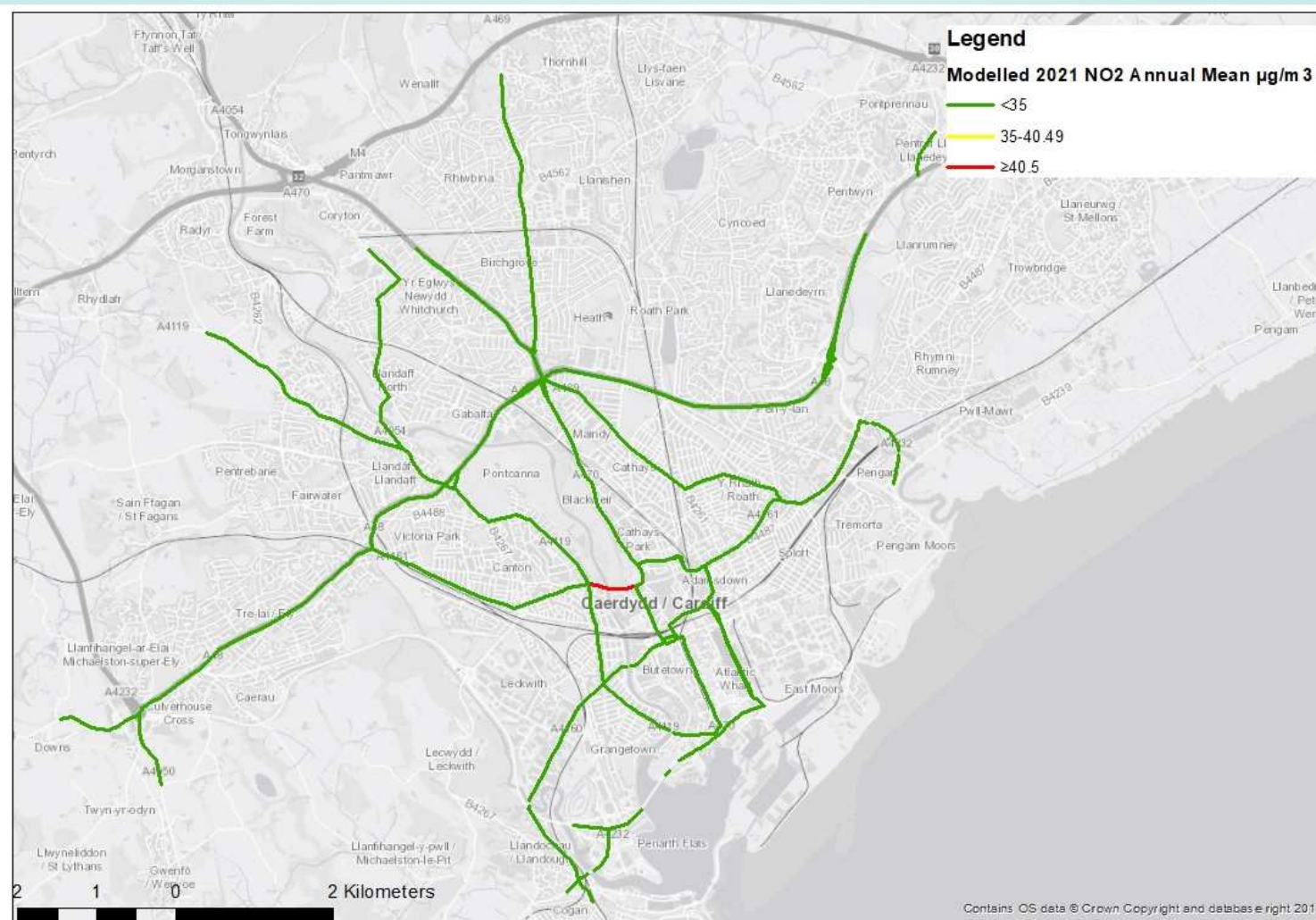


Initial Plan Results

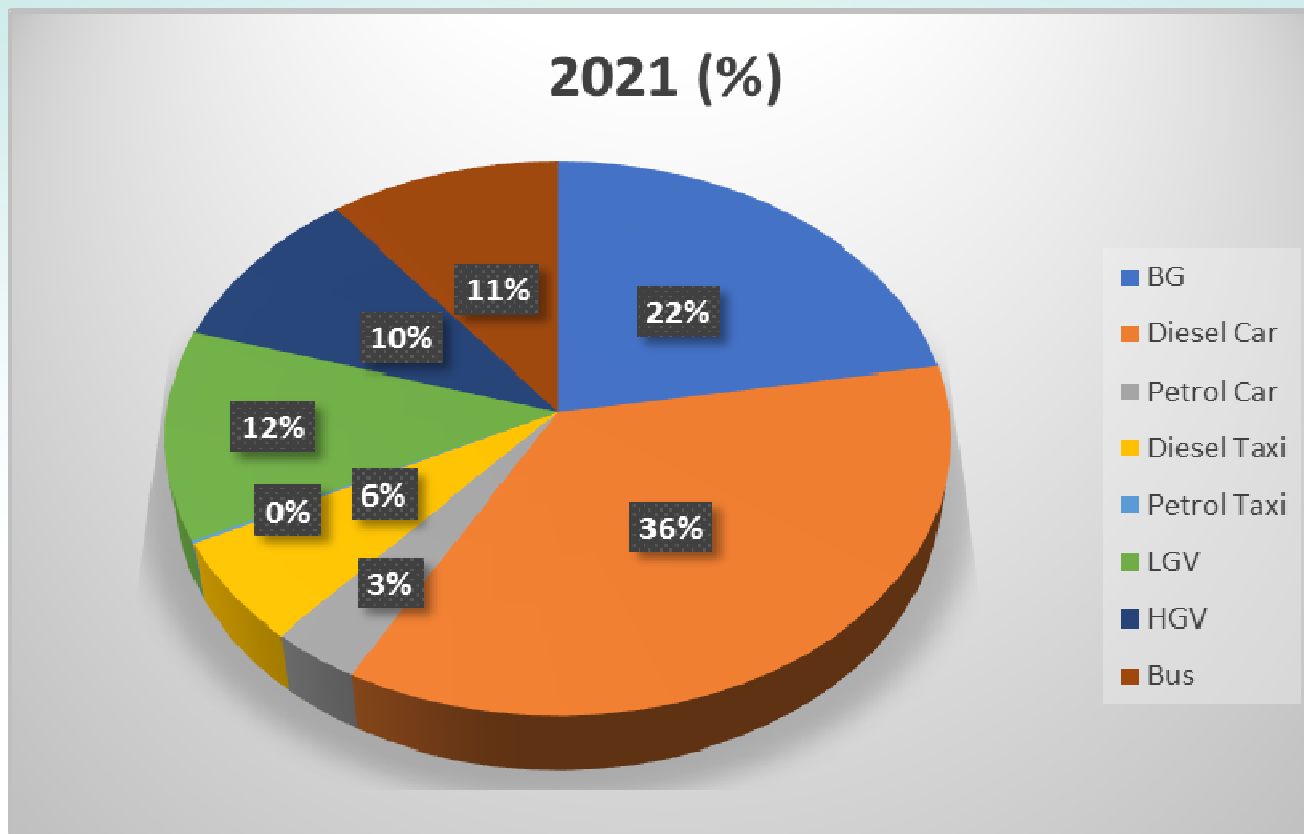
- Local modelling results significantly different to those produced by Defra using National PCM Model
- The results have been through a **quality audit and are considered robust.**
- **One Non Compliant Road Link - A4161(Castle Street) – City Centre AQMA on Westgate still a concern up to 2021**
- This reveals a “Central Issue” rather than a “East-West” issue
- **The results are baseline i.e. they are the ‘do nothing’ scenario.**
- **Diesel Cars are and will remain primary source of NOx**



Initial Plan Results



What the Modelling has told us: Source Apportionment



Shortlist of Measures Modelled to Assess Impacts

- A **shortlist of Transport and Clean Air measures** were been developed to address the identified issue. Some initial measures were chosen owing to the National Modelling showing non compliance on A48 and A4232 only.
- **These have now been modelled** in detail by Consultants to assess if they will deliver compliance and/or if compliance will be accelerated if implemented
- Following Results of Local Modelling Results additional measures Identified namely Clean Bus Technology Programme -Bus Retrofit Scheme and other highway improvements and A470 P&R



Shortlist of Measures Modelled to Assess Impacts

‘Shortlist’ of Measures in Initial Plan
CASAP 1 Measures
Active Travel Enhancements - Implement further 20mph zones and enhance a existing Zones.
Development of Cycling Superhighways infrastructure and Expansion of NextBike Scheme
Implement Zero Emission Buses on Cardiff Network
Revision to Taxi Licensing Policy to include emissions standards.
50 MPH on A4232 from Culverhouse to Bute Tunnels
CASAP 2
Bus Network Programme- Strategic Bus Network to improve bus networks and efficiency of the services via increased and improved bus lanes
Accelerate Park and Ride programme.
<ul style="list-style-type: none"> •North West: Implement new Park and Ride facilities at Junction 33 (750 Spaces) and Llantrisant Road (250 Spaces) •North East: Expansion of P & R on the A48.
City Centre West and City Centre Eastside Schemes (City Centre North was not included)
Improve and promote the uptake of low emission vehicles by enhancing Cardiff’s EV infrastructure
Review car parking charges for Council On Street Parking -additional daily parking charge to polluting vehicles

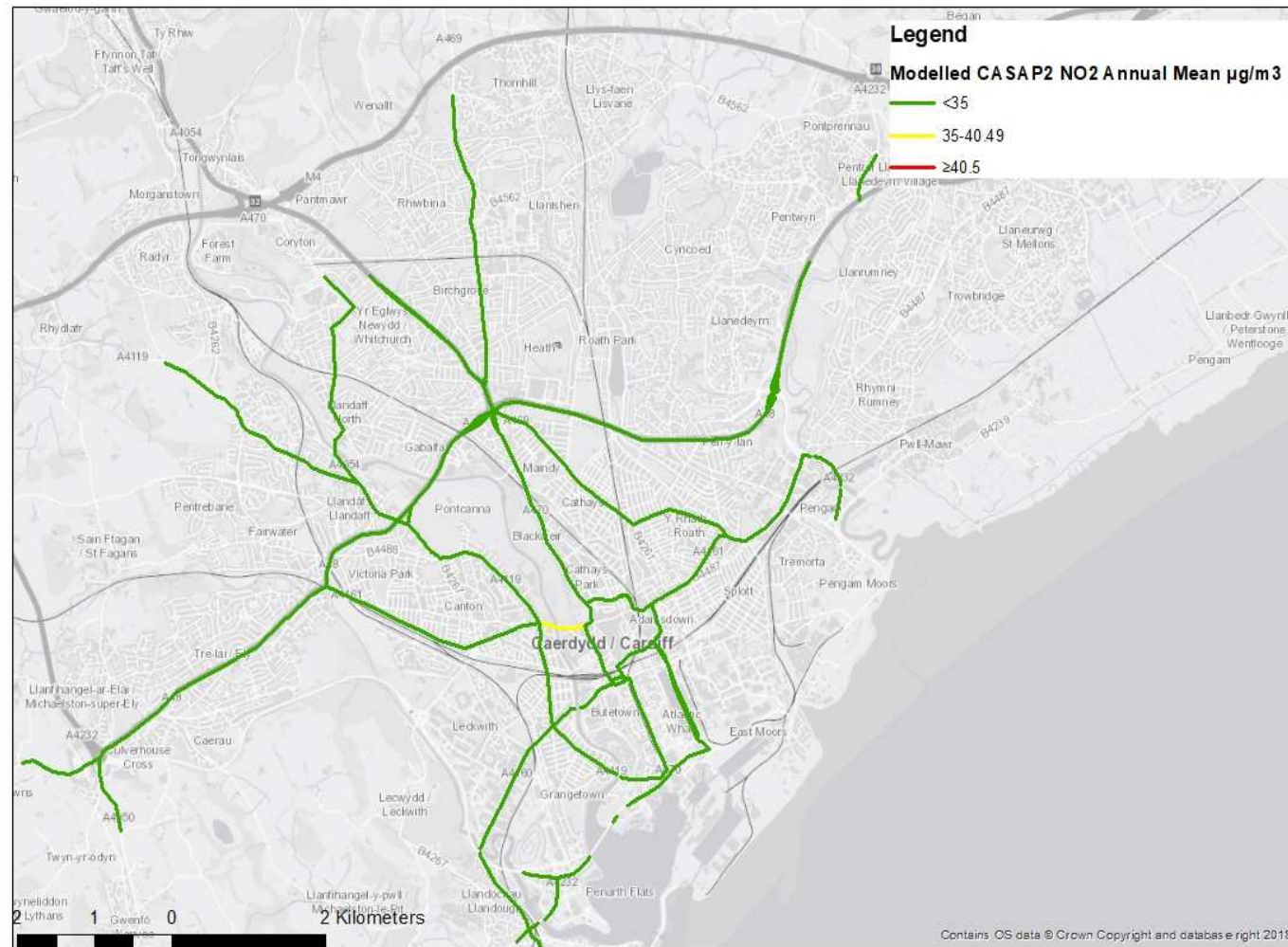


Results of Measures -

- Measures have been modelled as 3 cumulative packages –with three sets of Results -
- CASAP 1
 - 1. Electric Buses
 - 2. Impact of revised Taxi Licensing Policy
 - 3. Active travel package
 - 4. Cycling programme to end of 2020
 - 5. 50mph on A4232
- NO2 Reduction on Castle Street $4 \mu\text{gm}^{-3}$
- Compliance is achieved reduction from $41.1 \mu\text{gm}^{-3}$ to $37 \mu\text{gm}^{-3}$



Results of Measures -

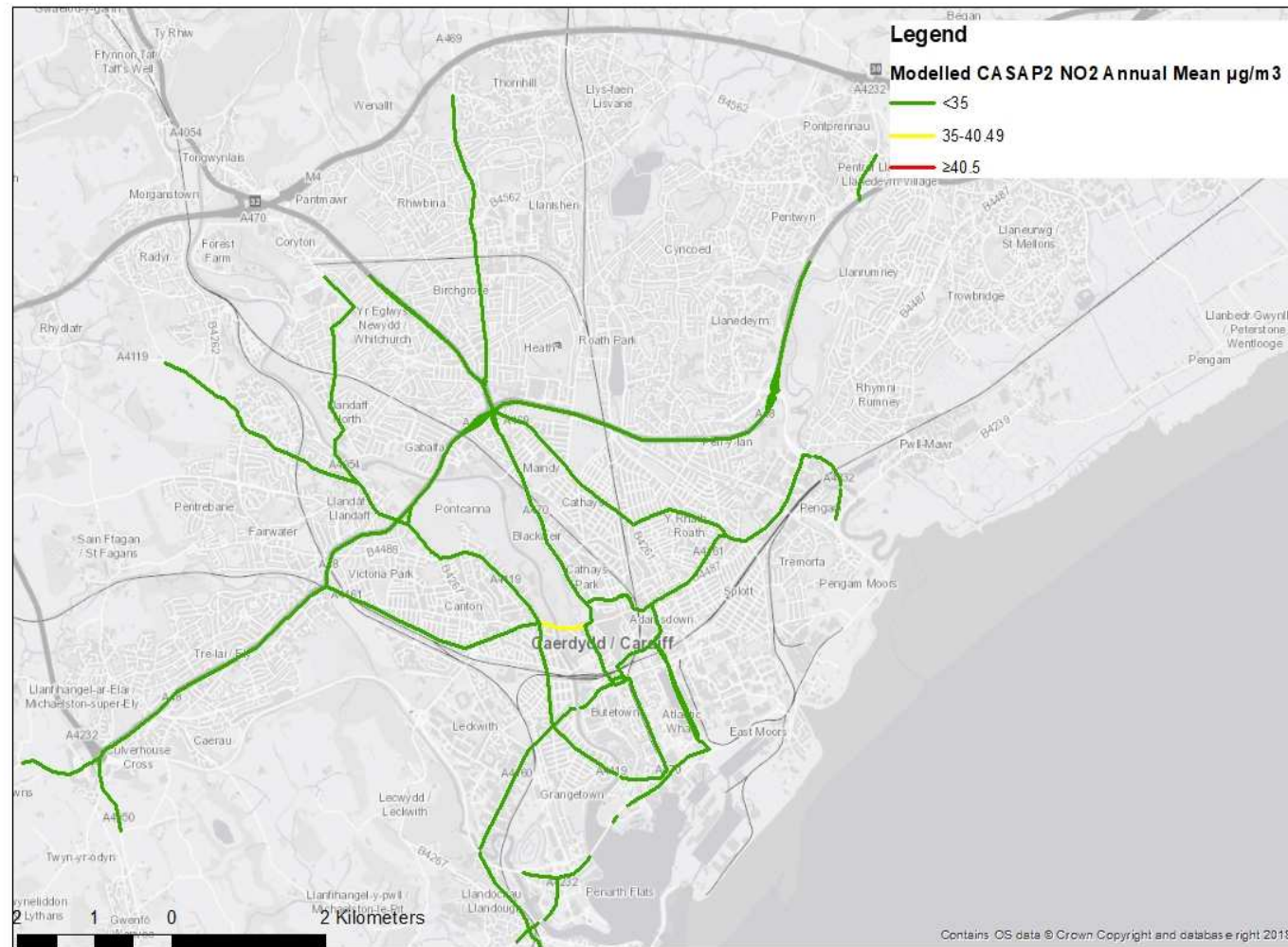


Results of Measures -

- CASAP 2 – all of CASAP 1 +
 - 1. Westgate St and Station Terrace Schemes (excludes Castle St)
 - 2. A48 P&R
 - 3. J33 P&R
 - 4. Revised Parking Charges at Council Car Parking Spaces
- NO2 Reduction on Castle Street of $5 \mu\text{gm}^{-3}$
- Compliance is achieved reduction from $41.1 \mu\text{gm}^{-3}$ to $36 \mu\text{gm}^{-3}$



Results of Measures -

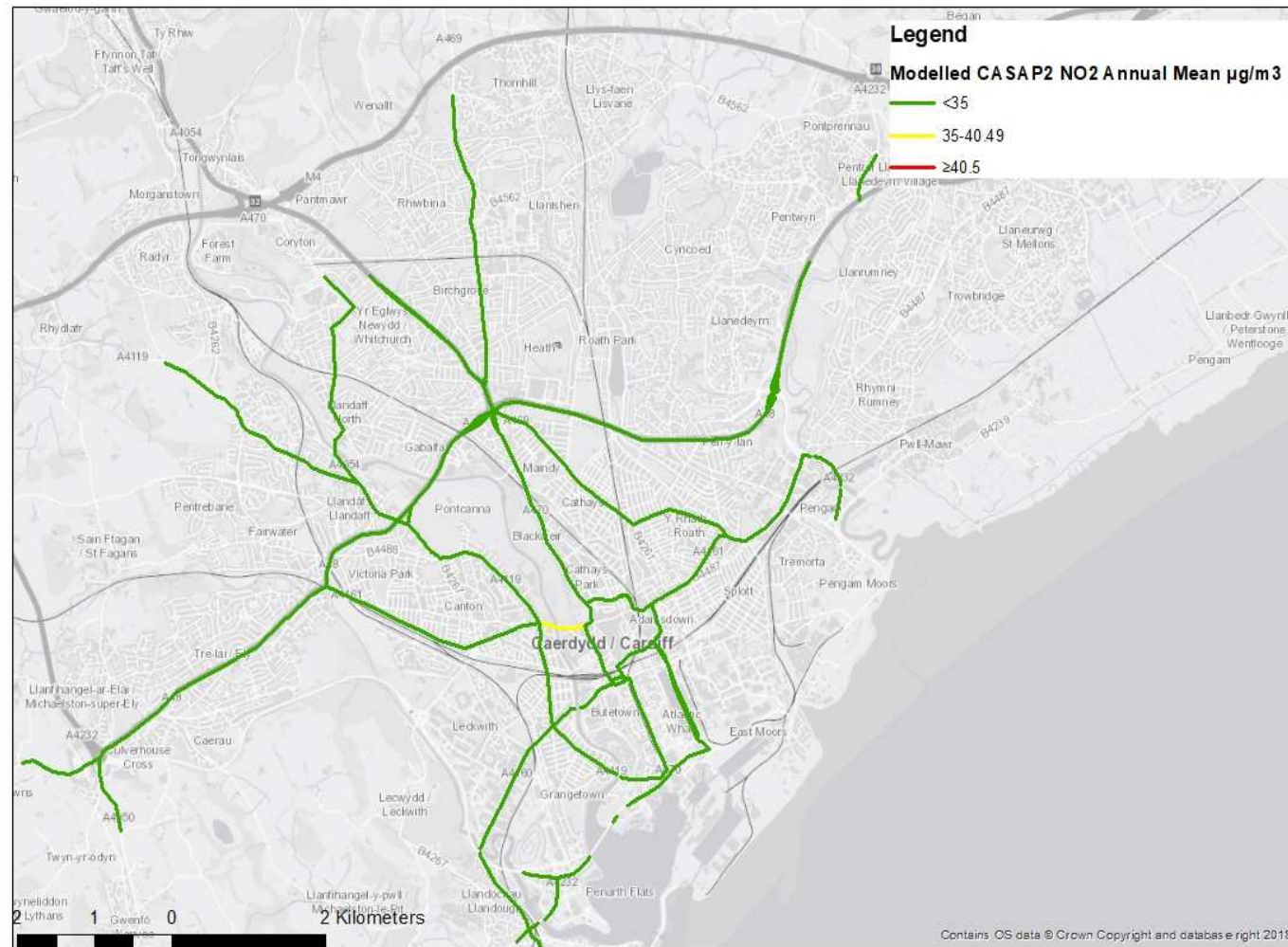


Results of Measures -

- CASAP 3 – all of CASAP 1 +2
 - 1. Retrofit Programme for Buses
 - 2. A470 additional southbound traffic lane
 - 3. Nantgarw P&R
- NO2 Reduction on Castle Street $6 \mu\text{gm}^{-3}$
- Compliance is achieved reduction from $41.1 \mu\text{gm}^{-3}$ to $35 \mu\text{gm}^{-3}$



Results of Measures -



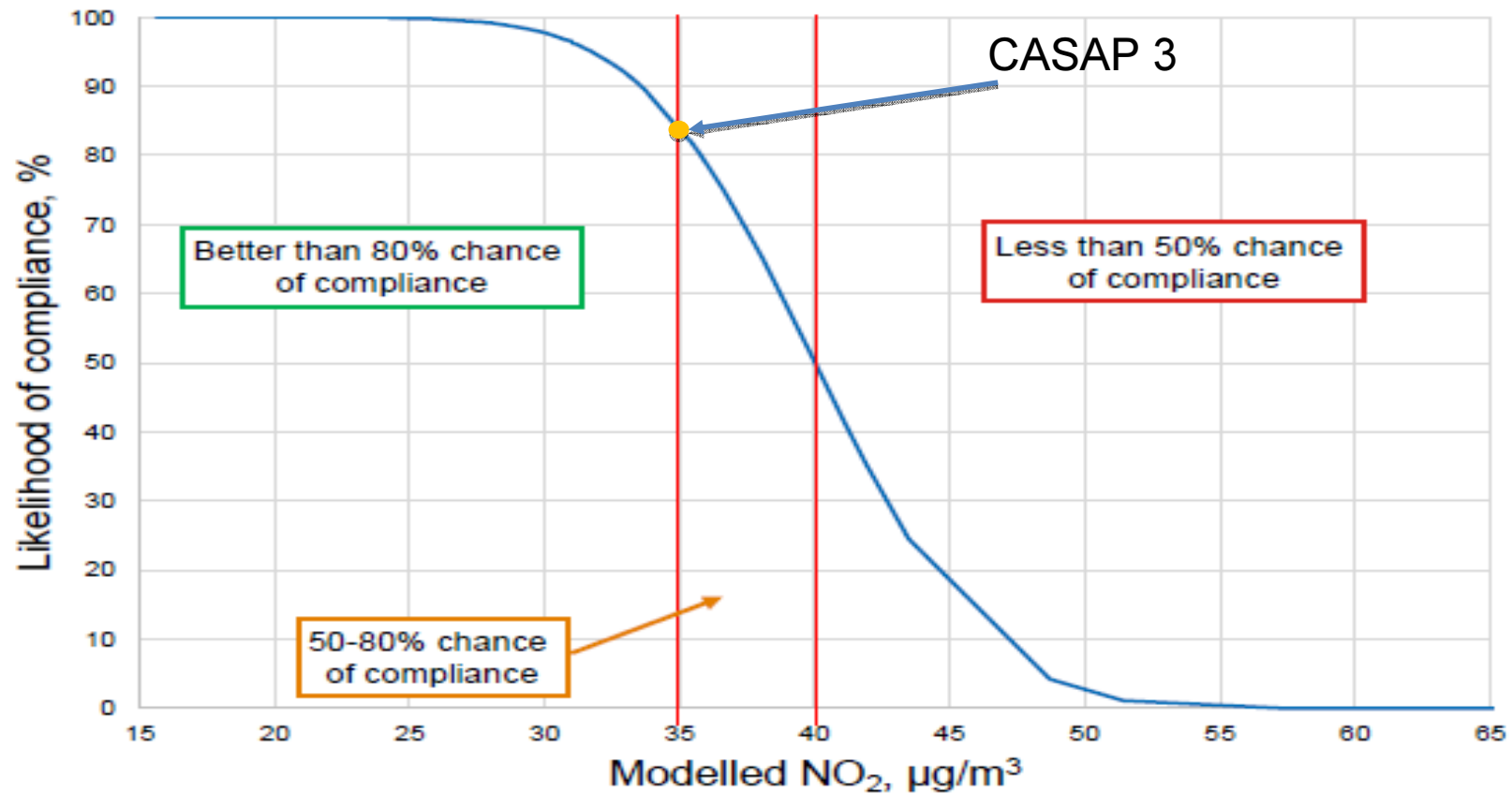
Results of Measures

- Owing to Margin of Error in Modelling $\sim \pm 5 \mu\text{gm}^{-3}$ the Council needs to have as much confidence in results achieving compliance
- By achieving $35 \mu\text{gm}^{-3}$ have greater than 80% chance that compliance will be achieved. This is a key point in terms of the High Court Ruling
- Results to date do not include Castle St Scheme Proposals – given the likely reduction in traffic, this should have significant positive impact on further reducing NO_2 concentrations



Results of Measures

Model error is an RMSE (root mean square error) of $5 \mu\text{g}/\text{m}^3$ which gives the following probability distribution



Results of Measures

- Legal test as set out in ruling of CE 2 states that in order to comply with Article 23 of EU Directive that plans must ensure that compliance with the limit values is not just possible **but likely**¹.
- Is >80% chance of compliance being achieved sufficient to comply with the legal test of ensuring that compliance is likely?

¹ ClientEarth (No. 2), Paragraph 95. <https://www.judiciary.gov.uk/wp-content/uploads/2016/11/clientearth-v-sseviron-food-rural-affairs-judgment-021116.pdf>

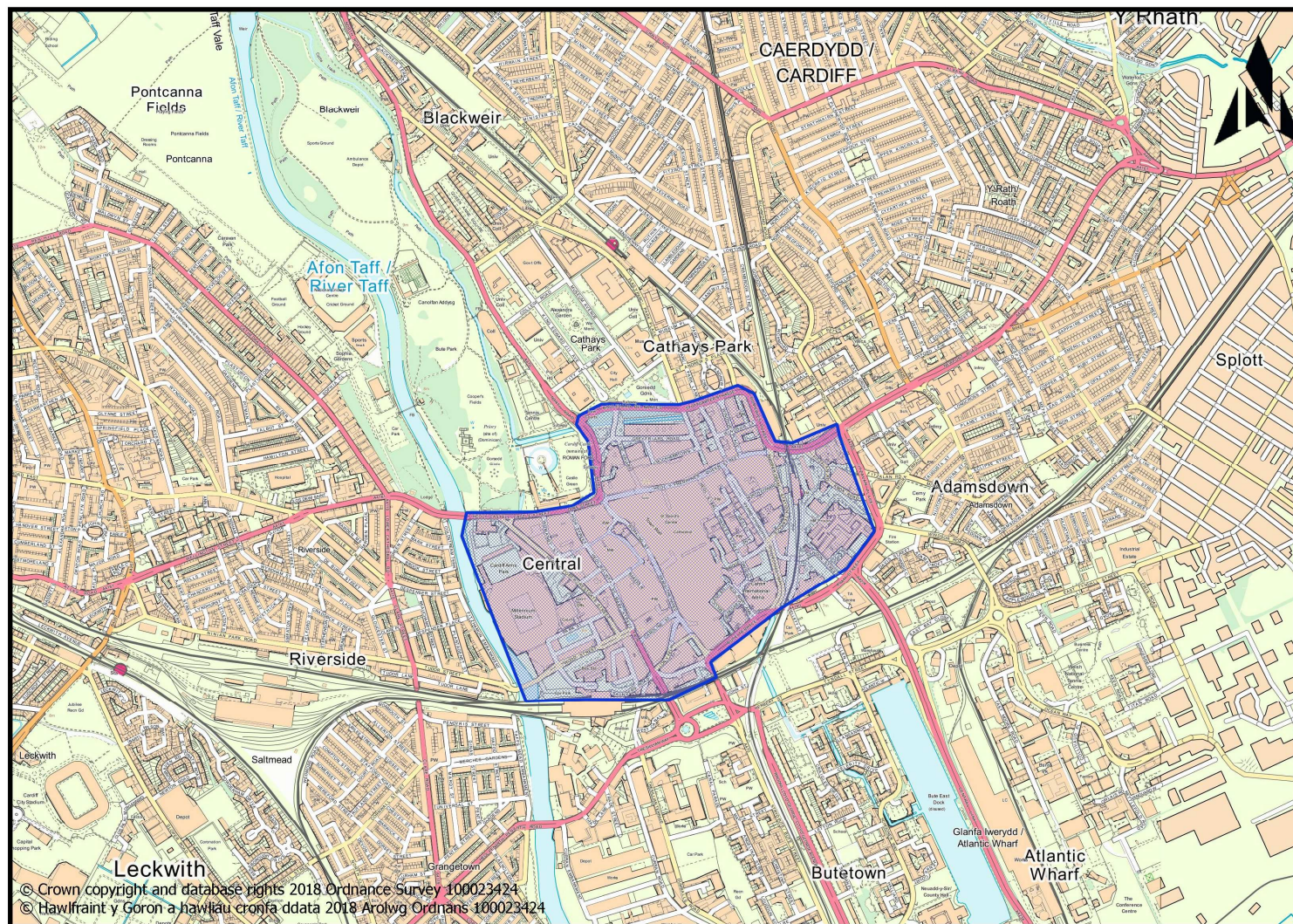


Modelling Clean Air Zones

- As per legal direction the Council has to demonstrate compliance in the shortest possible time, **a Clean Air Zone (CAZ) must be analysed as a compliance benchmark against the short list of measures in terms of it achieves compliance sooner than measures**
- Whilst a CAZ will be the benchmark against which other measures are assessed for achieving compliance it **does not imply that the CAZ will become the preferred option**
- **Based on results of baseline assessment and source apportionment a small city centre CAZ, with only private cars Euro 6/4 was initially modelled**
- **A comparative CAZ for HGVs,LGVs, also modelled**



Modelling Clean Air Zones



CAZ Results

- **CAZ1 –Private Cars** achieves compliance on Castle Street – **32.8 μgm^{-3}**
- **CAZ2 - Commercial Vehicles-** achieves compliance on Castle Street **35.3 μgm^{-3}**
- However, overall when compared to CASAP results more road links have NO2 concentrations which are higher (although still within compliance)
- The modelling assumes CAZ is place by end of **2020 – Highly Unlikely**



Measures as the Preferred Option

- Government guidance is quite clear that a CAZ should only be implemented if **non-charging alternatives have been found to be insufficient to bring compliance in the shortest possible time.**
- Current Assessment shows compliance is achieved – CASAP 3 provides >80% assurance on this which should be sufficient to satisfy legal test.
- CASAP measures appear to give wider overall air quality improvements than a charging scheme focused on the city centre
- The measures should be refined to develop the Full Business Case, for Final Plan by **June 30th 2019**
- Number of measures have already been excluded from further analysis owing to further qualitative assessment in terms of timescales of implementation and impact on Castle Street.



Proposed Final Packaged of Measures for FBC

- **Electric Buses** – 36 Buses to be implemented **ULEB Bid Granted**
- **Retro Fitting** - **Current Assessment based on 94** Cardiff Buses that are not Euro 6, scheme will be open all operators
- **Above measures could be enhanced by designation of a Bus LEZ on Castle Street/ Westgate St creating Bus Quality Partnership**
- **Taxi Licensing Policy** – no direct cost to Council on policy change but support through **grant scheme in conjunction with WG** as a mitigation measure for Taxi Trade could
- **City Centre Loop including Castle Street**
- **Active Travel and Cycling Measures**
- **The above measures will be modelled as a Final Package**



Taxi Mitigation Through Grant Scheme


Taxi Policy - Council/ WG could consider grant scheme to assist taxi operators/ drivers upgrading similar scheme in Southampton

<https://www.southampton.gov.uk/environmental-issues/pollution/air-quality/concessions/>

Currently ~ 1800 non compliant HC/PHVs based on Southampton Scheme costs=

£3k for electric = £5.5M

£2k for Plugin Hybrid - **£3.6M**



SOUTHAMPTON
CITY COUNCIL

What do you want to do?

Home > Environmental Issues > Pollution > Air quality > Concessions


Taxi Incentive Scheme

Within this section





> Taxi Incentive Scheme

Discounts for electric vehicles

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Low Emission Taxi Incentive Scheme

The Southampton City Council (SCC) and Eastleigh Borough Council (EBC) Low Emission Taxi Incentive Scheme will offer cashback for replacement of a more polluting Private Hire or Hackney Carriage vehicle with a low emission alternative.

Eligible Vehicles

Euro 3 petrol and Euro 5 diesel vehicles or older that comply with the Scheme terms and conditions.

Our Offer

To receive cashback, replace your eligible vehicle with a new or used:

Option	Description	Cashback Incentive
Full Electric	A vehicle with an original specification of being powered only by a battery charged from the electricity grid.	£3,000
Plug-in Hybrid Electric Vehicle (PHEV)	A vehicle with an original specification of being powered by a plug-in battery and an Internal Combustion Engine (ICE). After the battery range is utilised the vehicle reverts to conventional hybrid operation (Minimum Euro 4 Petrol or Euro 6 Diesel Engine).	£2,000
Full Hybrid	A vehicle with an original specification of being powered by an ICE and is capable of being powered solely using a battery and electric motor. Battery	£1,500



Estimated Costs for Measures

Measure	Total Est Cost	Funding Secured	Possible Funding Required from WG Air Quality Fund
Electric Buses	£13.5M	ULEB Grant £5.69M	£1.8M
Bus Retrofit	£1.4M	-	£1.4M
Taxi Incentive Scheme *	£5.5M*		£5.5M
City Centre Loop Schemes up to end of 2021	~£18.9M CCN	-	CCW(Westgate St £7.6M CCN (Castle St/Blvd de Nantes) £7.1M Eastside Phs 1 £4.2M
Active Travel and CS1 completion	£7M	-£3M	£4.5M
			Total: £32.1M* *excludes funding bids made to LtF and City Deal



Economic Appraisal of Options

- Full detailed socio-economic distribution of the measures and a distributional analysis to understand the extent to which these measures may impact on the residents of Cardiff and those that travel in to the city.
- Final business Case will include detailed health impact assessment and a distributional impact assessment.



Further Measures

- **Overarching Clean Air Strategy and Action Plan sets out longer term measures intended to further improve AQ and satisfy LAQM requirements.**
- **Includes Measures that unlikely to have immediate impact on area of non compliance, but likely to provide further AQ improvements including AQMAs such as:**
 - Implementation of Non Idling Zones
 - Living Walls and other Green Infrastructure
 - EV Infrastructure and Council Fleet Measures
 - Car Clubs with Low Emission/ Zero Emission Vehicles
 - Air Quality Planning Guidance
 - Schools Active Travel
- **CASAP will be included in OBC as Appendix**



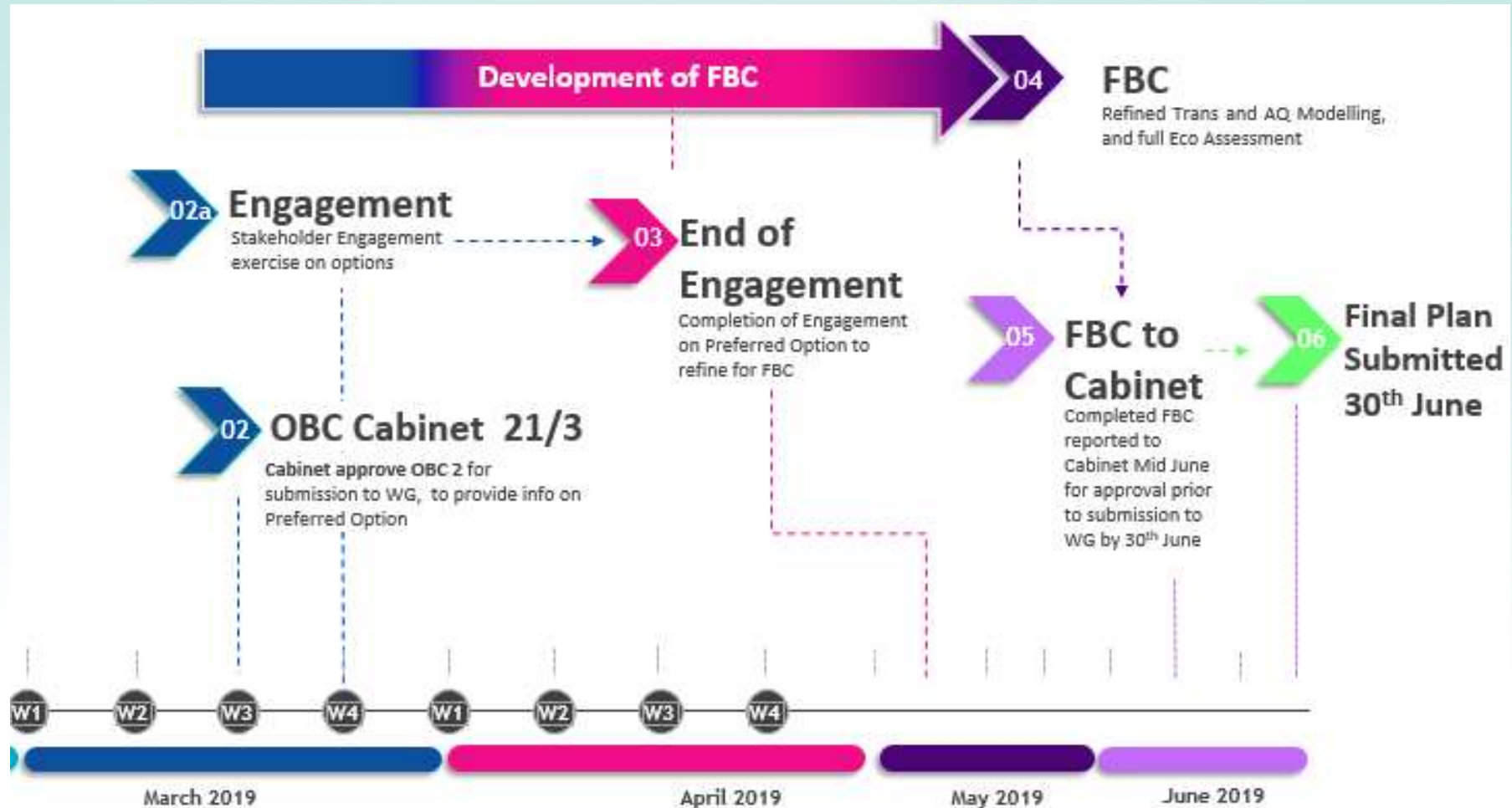
Engagement



- Cabinet Approval of OBC scheduled for 21st March, with engagement launched following approval
- Comms strategy has been developed
- Aim is to educate stakeholders that Councils preferred option is package of measures which demonstrate compliance.
- Will detail that CAZ has been considered, but is not preferred option, owing to impacts to individuals and businesses, and increase in NO2 levels away from City Centre compared to measures.



Timeline Going Forward



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Challenges, Representations and Appeals Policy and Guidance

Matthew Wakelam – Assistant Director Street Scene

Environmental Scrutiny: 19th March 2019



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Working for Cardiff, working together



Background

- Parking, bus lane and moving traffic enforcement supports promotion of sustainable travel and improve driver behaviour.
- Delegation of powers to enforce now with Local Authority from Police.
- Guidance and good practice is utilised by the appeals team to support making decisions.
- Currently there is no documented / formal policy or guidance for Challenges, Representations and Appeals.



Why do we need to have a policy and guidance?

To provide officers and citizens with the council's guidance on challenges, representations and appeals against the issuing of penalty charge notices.

- *Welsh Government guidance states 'Authorities should formulate (with advice from their legal department) and then publish their policies on the exercise of discretion'.*

Outcome

To ensure processes for pursuing outstanding penalties are efficient, effective and easy to understand.



What will having a policy and guidance change?

The Policy does not change legislation relating to pursuing outstanding penalties but provides consideration principles:

1. Merit of the Case
2. Council Policy
3. Statutory Obligations
4. Driver/vehicle history

Outcome

Provides clear and transparent information on how Challenges, Representations and Appeals are dealt with by Cardiff Council.



Will the policy and guidance provide the outcome for every challenge, representation or appeal

The policy and guidance will assist Officers to manage each case but it is only guidance

- *The Council is under a legal duty never to fetter its discretion and all challenges, representations and appeals must be considered on their own merits, provided legislation is observed to at all times.*

Outcome

To ensure an open and fair approach to dealing with challenges, representations and appeals.



Other key points in the policy and guidance

1. Medical emergencies – Officers will consider on proof provided.
2. Payment Plans – Officers will consider if there is evidence of citizen experiencing financial difficulties.
3. Following Notice of Rejection of Representations – Information on how formal representations can be made to the Traffic Penalty Tribunal.
4. Common Scenarios (appendices) – Example scenarios and outcomes.



Core data from 2017/18 on appeals

Parking Enforcement Statistics (PCN's)		%
Issued	59,668	
Appeals received	12,604	21%
successful	6,985	12%
unsuccessful	4,857	8%
Cancelled	8,438	14%
Paid at discount	33,131	56%
Paid at full	6,484	11%
Paid at surcharge	1,533	3%
Total paid to date	41,148	69%
Total Outstanding at year end	10,082	17%

Moving Traffic Offence Statistics		%
Issued	144,578	
Appeals received	18,535	13%
successful	9,269	6%
unsuccessful	4,834	3%
Cancelled	26,782	19%
Paid at discount	87,152	60%
Paid at full	2,259	2%
paid at surcharge	4,692	3%
Total paid to date	94,103	65%
Total Outstanding at year end	23,693	16%

- 204,246 PCN's issued with 31,139, 15% or 1 in 7 appealed
- From 31,139 appeals, 16,254 or 52% are accepted
- Cardiff are 3rd of 7 core cities in terms of appeals accepted



Core Data from 2018/19 on cases taken to Traffic Penalty Tribunal

2018/2019	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
PCNs issued (report 0419) (CM06)	4,772	5,664	5,422	4,620	4,936	6,576	6,935	7,376	4,970	0	0	0	51,271
CCTV PCNS (see 0079)	13,717	14,712	14,731	15,631	14,497	12,956	18,078	19,612	16,745	0	0	0	140,679
NtOs issued (report 0079)	1,608	1,378	1,289	1,779	1,201	777	2,081	627	2,098	0	0	0	12,838
Charge Certificates issued (rep 0079)	3,144	3,185	3,685	3,705	3,123	3,072	4,410	874	5,603	0	0	0	30,801
Informal challenges rec inc ON Hire reps (rep 0243)	1,040	1,468	1,393	1,442	1,568	1,369	1,123	1,354	952	0	0	0	11,709
Formal representations received (rep 0243)	1,929	2,145	2,067	2,043	2,034	1,680	1,106	994	682	0	0	0	14,680
On line challenges (rep 0243)	752	695	735	693	672	1,128	2,089	2,664	2,013	0	0	0	11,441
Acknowledgements within 7 days	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	12
TPT appeals received	33	69	58	43	55	48	82	55	35	0	0	0	478
TPT cases not contested	8	5	4	8	9	10	12	6	5	0	0	0	67
	25	64	54	35	46	38	70	49	30	0	0	0	
TPT decisions received (CM07 denominator)	10	45	32	15	19	22	48	27	7	0	0	0	225
TPT Decisions in favour of Council (CM07 numerator)	9	30	14	10	7	8	24	16	4	0	0	0	122
TPT Decisions in favour of Council %	90%	67%	44%	67%	37%	36%	50%	59%	57%	#DIV/0!	#DIV/0!	#DIV/0!	54% overall
TPT decisions awaited	15	19	22	18	27	16	24	22	23	0	0	0	
Quarterly TPT decisions to Council	67%			47%			55%			#DIV/0!			



Questions / Discussion



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