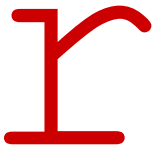
STATES OF JERSEY



AIR QUALITY REVIEW: REPORT OF THE ENVIRONMENT SCRUTINY PANEL (S.R.8/2008) – RESPONSE OF THE MINISTER FOR PLANNING AND ENVIRONMENT

Presented to the States on 28th July 2009
by the Minister for Planning and Environment

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Introduction

The Minister welcomes this report, in particular its central recommendation that clarification is sought with regard to which Department has lead responsibility for developing an Air Quality Strategy for Jersey. Progress to date has been hampered by this lack of clarity and also by a lack of resources.

The Minister is delighted to note that agreement has now been reached with the Chief Medical Officer of Health, and the Planning and Environment Department will lead. Production of the strategy has been included as a priority activity within the Department's 2010 business plan (yet to be debated by the States).

It is important to note however, that whilst it is included in both the Department's business plan and the States Strategic Plan, no additional resources have been allocated. This will impact on the Department's ability to produce the strategy, in particular on the development and enforcement of any associated legislation. In addition, compliance with any future air quality legislation will generate costs which need to be borne by the States and other private companies.

The Minister's replies to the findings and recommendations of the report are shown on the following tables.

Recommendation	Response
1. There is an urgent need to take forward the Air Quality Strategy that formed a clear commitment (item 4.4.5) of the Strategic Plan 2006 – 2011. It should – • identify the key pollutants and their sources; • clearly identify the responsibilities of the various departments to implement elements of the Strategy; and • set out the framework for determining measures to improve air quality and how they are to be introduced.	The Planning and Environment Department recognises that it is imperative that Jersey develops an Air Quality Strategy and associated legislation, if required.
2. Responsibility for Air Quality policy matters should lie with Planning and Environment. To enable the Air Quality Strategy to be taken forward there needs to be clear ownership of the process and sufficient resources made available, both of which are currently lacking.	It has recently been agreed, through discussions with the Chief Medical Officer of Health, that the Planning and Environment Department will lead. Production of the strategy has been included as a priority activity within the Department's 2010 business plan (yet to be debated by the States). Additional resources will be required to deliver this

	strategy. The extent of additional resources will be identified through an economic analysis of the Strategy.
3. Health Protection Services within the Health and Social Services Department should provide technical support to Planning and Environment. This should include identifying appropriate health protection standards, developing an appropriate monitoring programme, and carrying out the necessary enforcement activities.	The Health Protection Department will form part of the Project Board for developing the Air Quality Strategy. Health Protection have commissioned AEA Technology – an energy and climate change consultancy – to investigate the cumulative impacts of development and associated traffic-flows in the town area. This study will use a traffic model contributed by TTS and will account for new development around the Waterfront. The AEA study, which will be available at the end of July 2009, is important is helping to assess the overall need and direction of an air quality strategy for environment to take forward. This study is anticipated by the end of July.
4. Both the Transport and Technical Services Department and Economic Development Department have an important role to play in implementing measures identified by the Planning and Environment Department to improve air quality. Planning and Environment must therefore be supported by Transport and Technical Services and Economic Development, as well as by Health and Social Services, when developing the Air Quality Strategy and other air quality policy initiatives and legislation by way of an Inter-Departmental Panel on Air Quality.	Agreed. Given this need for extensive consultation and buy-in from different States departments, the comments below on the proposed timescale, in response to recommendation 6, are all the more pertinent.
5. Planning and Environment should be given the necessary financial and technical resources to take forward the Air Quality Strategy. In the interim it would be appropriate to buy in the necessary technical resources until such time as they are developed locally.	Agreed. Whilst recognising the importance of, and need for, an Air Quality Strategy, this is a new work stream to add to an already pressurised work agenda. Resources are also lacking to buy in technical resources. An economic appraisal will be conducted of the Air Quality Strategy before taking it forward for debate by the States.

6. A clear timetable should be set for the introduction of the Air Quality Strategy and associated legislation. The aim should be to have the Strategy finalised within 6 months of P&E being given the responsibilities for taking forward air quality policy, with the enabling legislation finalised within 12 months.	It is agreed that a clear timetable is needed for the delivery of the Air Quality Strategy, however it is premature to fix finalising this at 6 months, with a further 6 months for enabling legislation, without yet having a clear idea of the scope of the Strategy itself. Furthermore, regardless of the scope, a timescale of 6 months to bring in a new Strategy is unrealistic, if it is meaningful and is to be properly consulted upon. At a bare minimum the following is required – 1. Set up Inter-Departmental Panel on Air Quality. 2. Develop the scope in light of the findings of the AEA report (minimum 4 weeks). 3. Draw up and advertise invitations to tender for the more technical elements of work (up to 2 weeks). 4. Receive back tenders and appoint consultants (minimum 6 weeks). 5. Receive report from consultants (up to 12 weeks). 6. Draw together a draft report/Green Paper for CMB and COM (up to 6 weeks). 7. Allow time for a Green Paper consultation and, potentially, Scrutiny (States' recommended best practice is a minimum of 12 weeks). 8. Draw together White Paper in light of findings from Green Paper consultation (minimum 4 weeks – assuming no additional research/ consultation required). 9. Take White Paper to CMB (minimum 3 weeks). 10. Take White Paper to COM (minimum 2 weeks). 11. Lodge for States debate (minimum 6 weeks). Total = 57 weeks

	This basic timetable provides no time for contingency. If the Strategy concludes that enabling legislation is required, then this will require instructions to be drafted and a slot for Law Officer time to be secured. New legislation must then be debated by the States. Experience shows that this is very unlikely to be concluded within 6 months of delivery of the Strategy. Furthermore, recommendation 5 of this report correctly points out the important role to be played by a number of different States departments in developing this Strategy. Proper consultative development of the Strategy needs to be given appropriate time.
7. Consideration [should] be given to these international agreements when the Air Quality Strategy is being developed. The Air Quality Strategy should be supported by enabling legislation, which will subsequently allow Orders to be made as and when necessary. Such Orders could include requirements for burning smokeless fuels within St. Helier and a requirement for emissions testing of all commercial vehicles over 5 years old.	The Air Quality Strategy will consider Jersey's obligations under multi-lateral environmental agreements to which Jersey is already a signatory, and those to which Jersey has expressed a desire to work towards. It will also be important to include within this consideration the air quality related EU Directives that Jersey has expressed an interest to comply with, for example, the EU Framework Directive on Ambient Air Quality Assessment and Management (96/62/EC) for the protection of human health and the environment, the European Air Quality Directives (96/62/EC)[1] and the Waste Incineration Directive 2000/76/EC (WID).
8. Considerable development of the Waterfront in St. Helier is taking place or planned, yet the air quality impacts are being assessed in a piecemeal way. A Strategic Environmental Assessment should be carried out for this area to address the cumulative impacts of the various developments.	Health Protection have commissioned AEA Technology – an energy and climate change consultancy – to investigate the cumulative impacts of development and associated traffic flows in the town area. This study will use a traffic model contributed by TTS and will account for new development around the Waterfront. The AEA study, which will be available at the end of July 2009, will assess the overall need for, and direction of, an air quality strategy.

[1] Council Directive 96/62/EC of 27th September 1996 on ambient air quality assessment and management.

	In terms of Strategic Environmental Assessment (SEA), there is a need to develop SEA Policy that will form a framework for conducting future SEAs in Jersey. The background development of this policy will in itself take a significant amount of time and will require dedicated resources.
9. Monitoring of air quality forms an integral part of the Air Quality Strategy. There needs to be a long-term commitment to a programme of air quality monitoring. This should include use of equipment that meets EU standards, supported by other indicative methods where appropriate.	Part of the remit of the Air Quality Strategy will be to recommend a robust and fit-for-purpose long-term air quality monitoring programme with clear reporting requirements.
10. The Panel has not formed a strong view on the type of monitoring site to select, and this should be subject to further consideration, by the relevant departments.	The development of a robust and 'fit-for-purpose' monitoring programme will form part of the Air Quality Strategy, which will also take the findings of this review into account.
11. Consideration [should] be given to acquiring a second automatic monitoring station that could be used to monitor nitrogen dioxide concentrations at hotspot locations.	See response to recommendation 10.
12. The automatic monitoring programme should be supplemented by the continued use of nitrogen dioxide diffusion tubes and the Osiris PM monitors. It would be appropriate to carry out a review of all the monitoring locations, changing them and adding to them as necessary, and of Quality Assurance/Quality Control procedures. The Panel sees no value in continuing the monitoring programme for benzene, toluene and xylene, as the results have been shown to be well below the standards.	See response to recommendation 10.