



Enshrining the human right to clean air in a new Clean Air Act

The Times: *Clean Air For All* campaign
APPG for Air Pollution on 2 October 2019
<https://cleanair.london/clean-air-act/>

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The Times 'Clean Air For All' campaign

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New law would make clean air a human right

Ben Webster
Environment Editor
Chris Smyth Health Editor

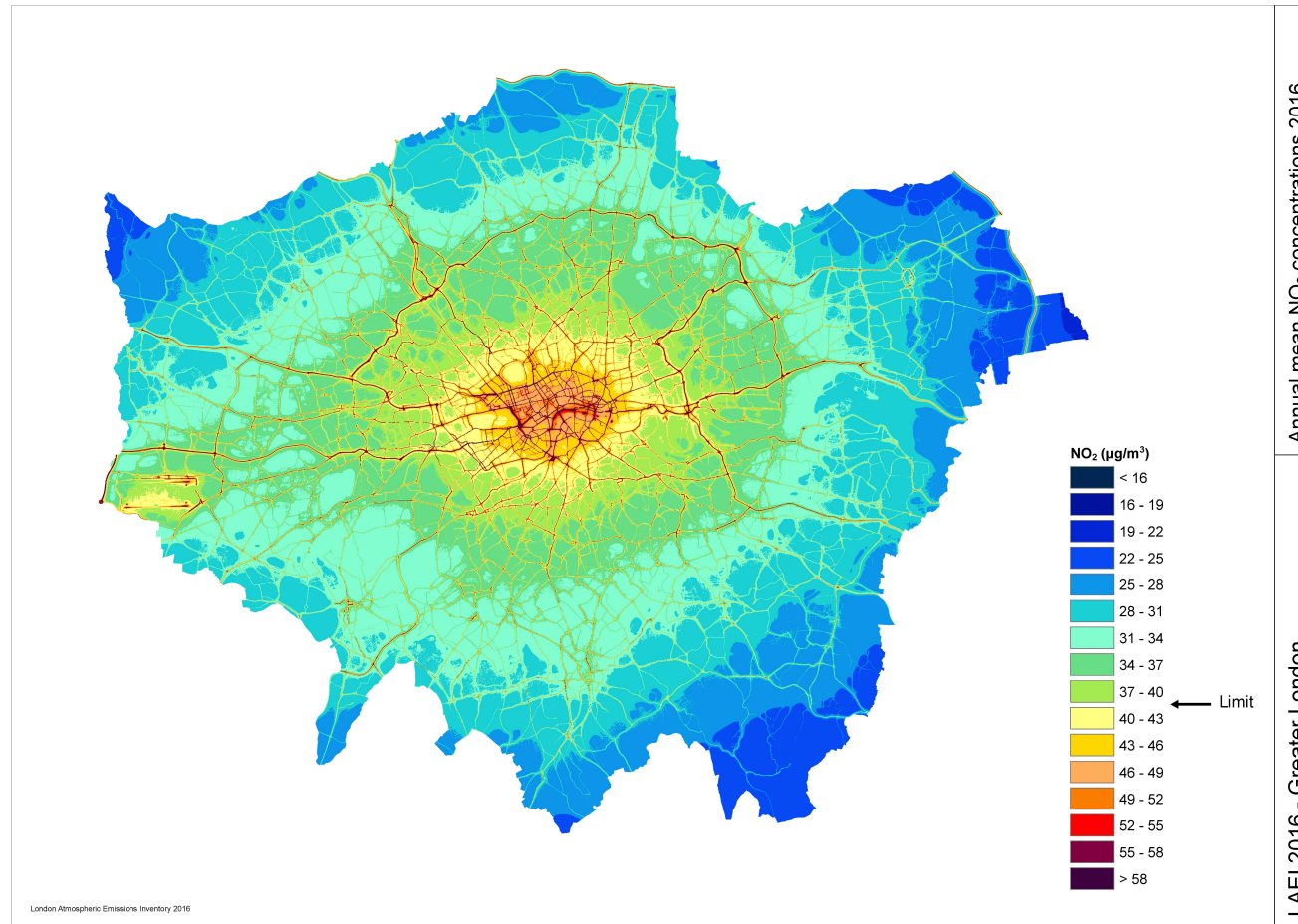


Britain once led the world in improving air quality but is now a “laggard and a scofflaw”, according to the UN special representative on human rights and the environment.

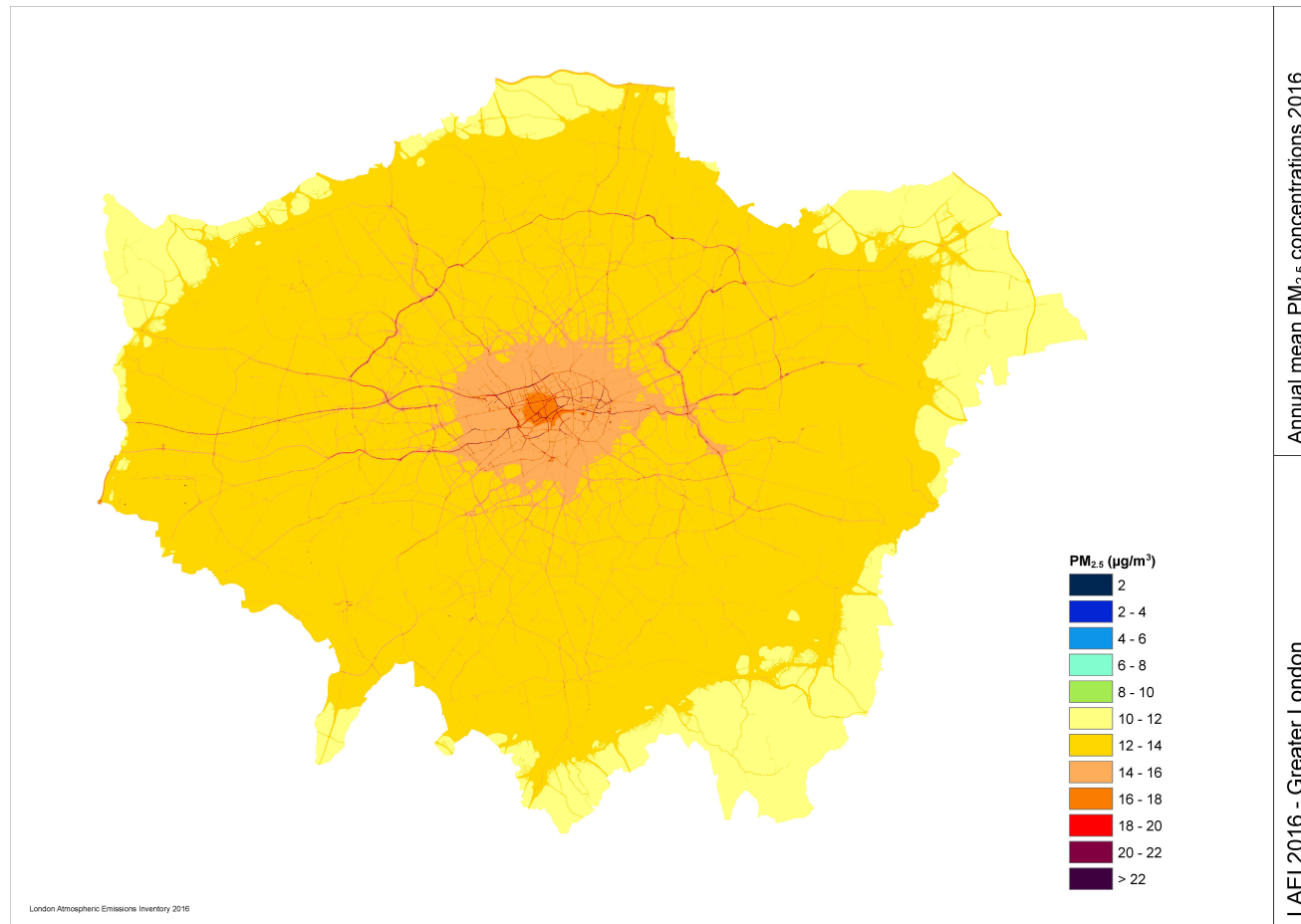
The Times is responding today by launching an urgent campaign for a new Clean Air Act to give everyone in the UK a right to unpolluted air, in what would be the biggest change in air quality legislation since the 1956 Clean Air Act was implemented in response to the Great London Smog.

Air pollution cuts short 40,000 lives across the country each year and costs the economy £20

Annual mean NO₂ concentrations 2016



Annual mean PM_{2.5} concentrations 2016



A Defra spokesperson said...a few times

“Air Quality has improved significantly in recent years, but air pollution continues to shorten lives which is why we are taking concerted action to tackle it.

“We are working hard to reduce transport emissions and are already investing £3.5 billion to clean up our air, while our Clean Air Strategy has been commended by the World Health Organization as an ‘example for the rest of the world to follow’.

“In the Strategy we committed to setting an ambitious long-term air quality target and we are examining action needed to meet the WHO annual guidelines to significantly reduce PM_{2.5} levels. Our Environment Bill will give legal force to that strategy and put environmental accountability at the heart of government.”

Defra hasn't actively warned people about air pollution episodes since April 2011

- Defra hasn't actively sent a news release to the media warning of an air pollution episode since 21 April 2011
- Instead they publish 'Air Quality Information bulletins' passively on <https://uk-air.defra.gov.uk/news> when ozone triggers a Pollution alert (or during HIGH particle air pollution episodes in 2014 and 2015).
- Office for Statistics Regulation wrote to Defra on 30 July 2019 about its statistics on air quality and emissions of air pollutants saying:
 - Defra does not engage with users directly or proactively
 - Defra needs to address six requirements and report by May 2020

<https://www.statisticsauthority.gov.uk/publication/statistics-on-air-quality-and-emissions-of-air-pollutants/>

Why enshrine the human right to clean air in law?

“Enshrining the human right to clean air in a new Clean Air Act is the single most effective and quickest way to address the UK’s largest environmental health risk. Overnight, air pollution, including greenhouse gases, would have to be considered in every decision by every government body in the way that equalities are now considered.”

Simon Birkett, The Times, 8/9 May 2019

We need a human right to clean air and/in a new Clean Air Act

What did local authorities tell Defra about the need to update the Clean Air Act 1993 in May and June 2011?

1. The overview was that the Act was completely outdated and needed a full overhaul
2. All terminology needed clarifying or modernizing
3. There are problems with enforceability and proportionality
4. Too many opt-outs from the dark smoke provisions
5. Better to provide a warning system rather than a strict offence in relation to dark smoke
6. Achieve some outcomes via the Building Regulations
7. New lease of life with growth of biomass burning [and CHP]
8. Certain additional powers sought
9. Power to adapt further standards
10. Streamline and focus the legislation

https://cleanair.london/app/uploads/Defra_Future-of-the-Clean-Air-Act_March-2012-2.pdf

‘Clean Air in London’ called for the Clean Air Act to be updated in its response to the ‘Red Tape Challenge’ (21 September 2011)

1. Focus on current and future fuels while not allowing historically problematic fuels
 2. Align with Air Quality Management Areas rather than Smoke Control Areas
 3. Continue to cover domestic and commercial properties (i.e. up to the threshold managed by the Environment Agency)
 4. Cover the full range of likely combustion devices and technologies
 5. Ensure PM₁₀ and NO_x and other pollutants are controlled
 6. Control festival bonfires and burning
 7. Be easily enforceable
 8. Include protections for indoor air
 9. Provide a catch all for local authorities and others to control harmful emissions in our cities that are not explicitly controlled by another respected authority (eg EA)
 10. Be adaptable to future circumstances
- <https://cleanair.london/indoor-air-quality/clean-air-act-must-be-updated-for-modern-fuels-and-technologies-and-be-enforced/>

Add the Climate Emergency...

What does Defra's 'Clean Air Strategy' of 14 January 2019 propose?
*We will ensure that existing powers for local government
can be more easily used. Specifically:*

1. Improve guidance on the use of existing powers to tackle industrial emissions
2. Develop guidance on how AQMAs, SCAs and Clean Air Zones (CAZs) interrelate and can be used
3. Consult on transformative changes to Local Air Quality Management (LAQM) guidance to drive local action
4. Encouraging greater public transparency about local air quality to empower citizens
5. Continuing to work with MHCLG to strengthen the planning practice guidance
6. Facilitating the sharing of best practice and knowledge between local authorities through webinars and other digital media

<https://www.gov.uk/government/publications/clean-air-strategy-2019>

Environment Bill summer policy statement: 23 July 2019

Improving the air we breathe

- Technically feasible to meet the WHO guideline for PM_{2.5}
- This will be underpinned by legislation on key measures in the Clean Air Strategy
- Powers to mandate recalls for vehicles and machinery when they do not meet relevant legal emission standards

NB. 25 Year Environment Plan 'persuades' move from 'wet' to 'ready to burn' wood

<https://www.gov.uk/government/publications/draft-environment-principles-and-governance-bill-2018/environment-bill-summer-policy-statement-july-2019#improving-the-air-we-breathe>

The Government has so far refused to include human rights of any sort in the Environment Bill

Six proposals for ‘Clean Air Acts’

Geraint Davies MP (Labour) (22 November 2017): Clean Air Bill

<https://services.parliament.uk/bills/2017-19/cleanair.html>

Baroness Jenny Jones (Green) (5 July 2018): Clean Air (Human Rights) Bill

<https://services.parliament.uk/bills/2017-19/cleanairhumanrights.html>

London Councils and City of London (21 March 2019): (Emissions Reduction (Local authorities in London) Bill

<https://www.londoncouncils.gov.uk/node/35303>

<https://cleanair.london/app/uploads/TEC-2nd-Dispatch-Whole-Doc-FINAL.pdf>

Chris Philp MP (Conservative) (3 September 2019)

<https://services.parliament.uk/bills/2017-19/cleanairno2.html>

Angela Burns AM (Welsh Assembly, Conservative)

<https://www.bbc.co.uk/news/live/uk-politics-parliaments-49497930>

Baroness Bryony Worthington (Labour) (2 October 2019): Air Pollution (Monitoring and Control) Bill

<https://europe.edf.org/news/2019/02/10/100-clean-2030-our-plan-tackle-air-pollution>

The second of these defines a list of ‘Clean Air Enactments’ which could include the others i.e. existing and new powers

Baroness Jones' Clean Air (Human Rights) Bill would:

- Ensure everyone has the right to breathe clean air and the Human Rights Act 1998 is to be read as though this were a Convention right.
Section 1(1) of the Bill establishes the right of individuals to breathe clean air. The right to breathe clean air is to be understood as part of the right to life, guaranteed under Article 2 of the European Convention on Human Rights, which triggers the duty of the State to protect life. Under section 6 of the Human Rights Act 1998 it is unlawful for a public authority to act in a way which is incompatible with a Convention right. As applied to the right to breathe clean air it would mean no public authority could act incompatibly with the right to breathe clean air, and that would include omitting to act.
- Address ambient air quality, indoor air quality, the natural environment and greenhouse gases
- Review and revise pollutants and limits. Tightening only of protections
- Impose duties on the Secretary of State, local government and others
- Establish the Citizens' Commission for Clean Air with powers
- Establish nine environmental principles e.g. precautionary

Important to include the human right to clean indoor air

People spend about 90% of their times indoors

- Buildings can have ventilation, heating/cooling and/or air filtration
- Require owners of buildings used as places of work or regularly accessed by public to assess and report concentrations in accordance with latest ISO standards
- Require developers to assess and report concentrations in newly refurbished or constructed residential developments for 12 months

Ask your 'facilities manager' whether building's indoor air quality and air filters are regularly monitored and maintained and comply fully with the latest ISO standards

Camfil, a world leader in air filters for buildings, has been the leading sponsor of 'Clean Air in London' since 2011

Letter to The Times published on 28 September 2019

Sir, Earlier this year, a review by this government found air pollution to be the biggest environmental threat to health in the UK. As the damage caused by polluted air to human life, health and future generations becomes ever clearer so the need to counter it is more urgent. There are now at least six separate proposals for a new clean air bill from across the political spectrum. They each seek to update the existing clean air act for modern fuels, technologies and circumstances and reduce significantly the estimated 40,000 deaths each year attributable to outdoor air pollution. **We call on the government to adopt and introduce a clean air bill in [the] Queen's Speech.** The bill must enshrine the human right to breathe clean air and a corresponding duty of the state and public authorities to provide and ensure healthy air and a healthy environment.

Signed by nearly 40 medics, scientists, MPs, Peers and NGOs



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