

New Clean Air Act

We call on the Government to adopt and introduce a Clean Air Bill in the next Queen's Speech. The Bill must enshrine the human right to breathe clean air and a corresponding duty of the state and public bodies to provide and ensure healthy air and a healthy environment.

The original Clean Air Act, which received Royal Assent on 5 July 1956, responded decisively to the Great Smog of December 1952 which had killed 4,000 people in days and up to 12,000 within months. It was introduced by Duncan, later Lord, Sandys as Minister for Housing and Local Government in Sir Anthony Eden's Conservative government after an excellent campaign by Gerald Nabarro MP, another Conservative Party politician.

That first Act banned the burning of coal and wood burning in Smoke Control Areas (SCAs) except in permitted appliances. Despite protestations beforehand that the Government didn't have money for grants, the poor would freeze or starve, jobs would be lost and the freight industry would not cope with distributing new fuels, the Clean Air Act made the UK a world leader for 15 years until Richard Nixon signed an American version of the Clean Air Act into law in 1972.

Much has changed since that first Act was passed. Scientists have realised that the deaths in 1952 were not only attributable to the respiratory effects of short-term exposure to visible smoke. They have also found that cardiovascular deaths (e.g. heart attacks and strokes) from long-term exposure to invisible particles (and gases) far outnumber those from short-term exposure. The latest official estimate is that between 28,000 and 36,000 deaths at typical ages were attributable to long-term exposure to fine particles (PM_{2.5}) and nitrogen dioxide (NO₂) in 2013. Every day we hear of new health effects caused by 'new' forms or sources of air pollution. This trend won't change without action.

We have also discovered loopholes in the original Clean Air Act, such as garages and supermarkets being allowed to 'sell' wood in SCAs if you 'distribute' it to your home and the difficulty and the need for councils to impose instant fines (as needed for vehicle-idling). Crucially, a 'Climate Emergency' has been also declared by the UK. The most effective solution to these problems is to tackle all air pollution at once, 90% of which is the same for greenhouse gases and local air pollutants.

Ministers, most notably Michael Gove, have made warm noises about introducing a new Environment Act with new obligations. But there is no sign that environmental rights for people and communities would be included in such an Act. Promises to replicate current air quality standards, such as 'limit values' for ambient air pollution concentrations, are not the same as being clear that people have a right to clean air. In any case, existing limit values are too weak to protect people's health; they need to be strengthened to ensure that at the very least pollution is reduced to within World Health Organisation guideline levels by 2030.

Meanwhile, with credit to The Times' excellent 'Clean Air For All' campaign, there could be six Clean Air Bills of different sorts heading for the next Parliament. Baroness Jenny Jones (Green Party) has shown how a 'human right' could be included in a new Clean Air (Human Rights) Act. In March 2018, a Super Inquiry into 'Improving air quality', by four powerful select committees, called for "a Clean Air Act to improve existing legislation and enshrine the right to clean air in UK law".

Enshrining, fulfilling and enforcing a human right to clean air in UK law would be powerful tool in the fight against the air pollution crisis. Overnight, people would be able to hold public bodies to account where they act in a way that is incompatible with ensuring the air we breathe is clean and safe. It

would complement a new 'environmental public body duty' in the Environment Bill, requiring all public bodies to consciously consider air pollution impacts as part of their decision making, in a similar way to how equalities are tackled now. Significantly increased powers and funding for local authorities are also needed to ensure that within this new framework local government can do more to tackle polluting emission sources.

As in 1956 and with the Climate Change Act 2008, a new Clean Air Act would make the UK a world leader in clean air innovation and practice.

Selected references:

<https://www.hja.net/press-releases/attorney-general-asked-to-quash-nine-year-olds-inquest-as-new-evidence-links-her-death-with-unlawful-pollution-levels/>

https://en.wikipedia.org/wiki/Clean_Air_Act_1956

https://en.wikipedia.org/wiki/Gerald_Nabarro

https://en.wikipedia.org/wiki/Eden_ministry

<https://www.metoffice.gov.uk/weather/learn-about/weather/case-studies/great-smog>

<https://www.thetimes.co.uk/article/undertakers-knew-the-truth-about-the-great-smog-smm7j0l2p>

COMEAP

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/734799/COMEAP_NO2_Report.pdf

Six Clean Air bills in the pipeline for the next Parliament:

1. <https://services.parliament.uk/Bills/2017-19/cleanair.html>
2. <https://services.parliament.uk/Bills/2017-19/cleanairhumanrights.html>
3. <https://cleanair.london/app/uploads/TEC-2nd-Dispatch-Whole-Doc-FINAL.pdf>
4. <https://services.parliament.uk/bills/2017-19/cleanairno2.html>
5. <https://www.thetimes.co.uk/article/clean-air-campaign-air-pollution-bill-will-save-thousands-of-lives-a-year-blhfhp6c>
6. <https://www.bbc.co.uk/news/live/uk-politics-parliaments-49497930>

Clause 1(1) of Jenny Jones' Clean Air (Human Rights) 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. Applied to the right to breathe clean air, this would mean that no public authority could act incompatibly with the right to breathe clean air, and that would include omitting to act.

Four select committees backed the call in March 2018

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/news-parliament-2017/joint-improving-air-quality-report-publication-17-19/>