

Clean Air (Human Rights) Bill - #EllasLaw

The Clean Air (Human Rights) Bill¹ (“CAHR Bill”) is sponsored in the House of Commons by Caroline Lucas MP who has also tabled an Early Day Motion². The CAHR Bill has already completed its passage through the House of Lords after Baroness Jenny Jones topped the ballot of Private Members Bills.

The CAHR Bill would enshrine the human right to breathe clean air precisely and explicitly in UK law. This would transform the quality of decision making by the Government and other public bodies overnight by requiring them to consider clean air as they currently consider equalities and requiring them to tackle air pollution. Rosamund Adoo Kissi-Debrah has agreed that the CAHR Bill could be called ‘Ella’s Law’ in memory of her daughter Ella Roberta who was the first person to have ‘air pollution exposure’ on her death certificate³. Ella died, aged nine, on 15 February 2013.

Ella’s Law would require the Secretary of State to achieve clean air throughout England and Wales within five years or postpone compliance by up to a further five years where the initial deadline cannot be achieved. The CAHR Bill would define a pathway to achieve the World Health Organisation’s (“WHO’s”) new air quality guidelines that were published on 22 September 2021 e.g. an annual mean concentration for fine particulate matter (PM_{2.5}) of 5 micrograms per cubic metre (µg/m³). In addition, new limit values would match the European Commission’s proposals for the revision of air quality directives and act as backstops or interim thresholds depending on whether ‘clean air’ standards have been achieved by 1 January 2028 i.e. annual mean concentrations for PM_{2.5} and nitrogen dioxide (NO₂) of 10 g/m³ and 20 µg/m³ respectively by 1 January 2030.

The CAHR Bill follows a ‘One Air’ approach to ‘clean air’ that encompasses the health, environmental and climate impacts of air pollutants and greenhouse gases. Importantly, the CAHR Bill addresses outdoor air in locations where people spend their time and indoor air in new buildings, public transport underground, where health and safety provisions apply and in buildings regularly accessed by members of the public including children. Mould is included. See the Chief Medical Officer’s report⁴.

In order to help national and local authorities, Metro Mayors and others, the CAHR Bill match duties with resources and requires new regulations to: enable the sale and use of appliances generating wholly renewable energy; enable energy efficiency improvements to domestic and non-domestic premises that reduce energy use and emissions of carbon dioxide; and restrict the sale and use of combustion appliances that emit pollutants to the air including wood burning stoves. These regulations should update the Clean Air Act 1993 for modern technologies and circumstances and real-world emissions.

In order to ensure independent scrutiny and continuous improvement, the CAHR Bill establishes a Citizens’ Commission for Clean Air (CCCA). The CCCA and the Committee on Climate Change would be required to review the pollutants and limits annually and advise the Secretary of State if they need tightening. The standards may only be tightened, with the approval of both Houses of Parliament. The CAHR Bill also requires the Secretary of State to publish information about air pollution in England and Wales annually and issue public warnings during air pollution episodes. The CCCA must enforce the right to breathe clean air. The CAHR Bill lists environmental principles that must be applied.

The CAHR Bill is designed to ensure annual review to achieve continuity, tightening, greater understanding and enforcement of limits and targets to achieve and maintain clean air.

¹ <https://bills.parliament.uk/bills/3161> and <https://cleanair.london/ellaslaw/>

² <https://edm.parliament.uk/early-day-motion/60394/the-clean-air-human-rights-bill>

³ <https://cleanair.london/hot-topics/ellaslaw/>

⁴ <https://www.gov.uk/government/publications/chief-medical-officers-annual-report-2022-air-pollution>