

Clean Air in London calls for Ella's Law

The Coroner for the Inquest touching on the death of Ella Roberta Adoo Kissi-Debrah, Philip Barlow, made legal history on 16 December 2020 by adding 'Air Pollution exposure' alongside 'Acute Respiratory Failure' and 'Severe Asthma' as the medical cause of Ella Roberta's death.

The Coroner concluded that air pollution 'significantly caused' and 'significantly contributed' to Ella Roberta's death on 15 February 2013.

These are very significant decisions for a number of reasons. First, the inquest was justified in part under Article 2 of the European Convention of Human Rights i.e. the Right to life which must be protected by the state. Second, it starts to make people think about the chain of consequences from emissions, concentrations and exposures to their health impacts not just the traditional death outcomes recorded on death certificates under standard World Health Organisation (WHO) specified categories. Third, doctors and other medical professional should consider and tell patients in future if air pollution may be affecting them.

The Coroner published a Report to Prevent Future Deaths on 21 April 2021¹. It highlighted the fact that Ella Roberta's mother, Rosamund Adoo Kissi-Debrah, was not given information by health professionals about the health risks of air pollution and its potential to exacerbate asthma. He went on to say that if Rosamund Adoo Kissi-Debrah had been given this information she would have taken steps which might have prevented Ella Roberta's death. The Coroner had referred at the Inquest to an 'alarming disconnect' between what Central Government 'knew' about the dangers of air pollution and the actual advice being given to Rosamund (and the public) between 2010 and 2013 when Ella Roberta was regularly in hospital.

The Coroner's Report to Prevent Future Deaths highlighted three principal concerns:

1. Legally binding targets based on WHO air quality guidelines would reduce the number of deaths from air pollution in the UK.
2. Information about national and local air pollution levels must be publicised.
3. The adverse effects of air pollution on health are not being sufficiently communicated to patients and their carers by medical and nursing professionals.

Clean Air in London (CAL) is calling therefore for a new Clean Air Act to be called 'Ella's Law' that would set legally binding targets based on the latest WHO air quality guidelines (due to be published in 2021) as minimum requirements to reduce the number of deaths from air pollution in the UK. It should also give Mayors and local authorities the powers that they need to decarbonise our cities and towns – as the first Clean Air Act did so successfully in 1956 – and require the Government and them to build public understanding of air pollution with advice for people on how to protect themselves and reduce pollution for themselves and others.

CAL has experience of the lack of information, inadequate communication and 'disconnect' referred to by the Coroner. In December 2009, CAL's submitted evidence to the Environmental Audit Committee's Air Quality Inquiry, accusing the (Labour) Government of one of the worst 'cover-ups' or failings in modern history for failing to publicise estimates of deaths attributable to long-term exposure to fine particles (PM_{2.5})². CAL's estimates of 3,500 such deaths in London and 35,000

¹ <https://www.judiciary.uk/publications/ella-kissi-debrah/>

² <https://cleanair.london/health/one-of-the-worst-public-health-failings-or-cover-ups-in-modern-history/>

nationally were corroborated in oral evidence by Professor Frank Kelly. This revelation led to the publication from 2010 of an ‘attributable fraction’ for such deaths in every local authority in England³.

Perhaps as alarmingly, Defra became increasingly reluctant to issue warnings about air pollution episodes during this period. Matters came to a head on Thursday 21 April 2011 when the first breach of the PM₁₀ daily limit value in London coincided with the start of the first HIGH ozone air pollution episode of the year on the eve of Easter. Jenny Jones (now Baroness) issued a press release calling on Mayor Johnson to warn people and that forced him and then the Government to issue warnings. These warnings were picked up by the media: I did half a dozen television interviews over the Easter weekend.

The Government clearly did not enjoy the attention or questions it attracted (about ozone and PM₁₀) and to CAL’s knowledge has not sent a ‘press release’ warning about an air pollution episode to journalists (or weather reporters) since then. I met a senior Government official on 22 December 2011 and asked him why the Government seemed reluctant to warn people about the health effects of air pollution. He said it was because they “did not want to frighten people”.

This impression was reinforced by a large amount of evidence from Defra, including reports, obtained by CAL using Freedom of Information laws and published by CAL on 24 July 2012⁴:

- *“We should consider when to put out the notice. Ideally this should be done sooner rather than later but perhaps not over the Easter Weekend if we can avoid it” (22 March 2012)⁵.*
- *“I can confirm that if press office use “high” as the cut off to tweet they could expect to be getting involved on around 50 days a year, which is too high. Using “very high” limits involvement to around 10-15 days a year which is more appropriate” (4 May 2012)⁶.*
- 13 June 2012⁷: *“In 2011 and years previous to this, [Defra] has published a press release on the first occasion each year when the ozone information or alert threshold has been exceeded. The purpose of the was to raise awareness via the press of the range of public information services that the Department provides”.*

“In 2012, [Defra] reviewed and revised its approach to using the media to communicate awareness of air pollution episodes. The Department’s new approach for 2012 and for future years is to issue an ‘Information Notice’ in spring time each year to raise awareness of the public information services provided by Defra. This was issued on 03/04/12 this year.”

This is despite a Defra minister telling Ben Bradshaw MP in a Parliamentary Answer dated 16 April 2012 that *“Defra has undertaken to issue a press release when the first ozone episode occurs each year⁸.”*

It is important to remember also that Mayor Johnson was also hiding the seriousness of air pollution in London while lobbying to weaken European air quality laws. CAL revealed these:

- 24 June 2010: Clean Air in London rejects Mayor’s (sole) proposals i.e. delay Phase 3 of LEZ to January 2012⁹

³ https://fingertips.phe.org.uk/profile/public-health-outcomes-framework/data#page/3/gid/1000043/pat/6/par/E12000004/ati/302/are/E06000015/iid/30101/age/230/sex/4/cid/4/tbm/1/page-options/ovw-do-0_car-do-0

⁴ <https://cleanair.london/olympics/mayor-of-london-urged-to-warn-those-affected-by-smog/>

⁵ https://cleanair.london/app/uploads/CAL-189-Defra-EIR-smog-130612_4_Actions-from-mtg-on-Ozone-Alerts-etc-on-20-March.pdf

⁶ https://cleanair.london/app/uploads/CAL-189-Defra-EIR-smog-130612_7_Re-Actions-from-mtg-on-Ozone-Alerts-etc-on-March-20-2012.pdf

⁷ https://cleanair.london/app/uploads/CAL-189-Defra-EIR-smog-130612_2_Briefing-note-on-forecasting-and-alerts.pdf

⁸ <https://www.theyworkforyou.com/wrans/?id=2012-04-16b.100484.h>

⁹ <https://cleanair.london/solutions/clean-air-in-london-rejects-mayors-sole-proposal-i-e-delay-phase-3-of-lez-to-january-2012/>

- 5 April 2012: Public health fraud (which related to the Mayor having glue sprayed in front of a monitor on the Olympic Route Network up to three times a day)^{10 and 11}
- 24 April 2012: Boris gets ‘nul points’¹²
- 9 November 2012: Mayor used the Pollution Suppressor to save himself not others¹³
- 9 December 2012: Mayor caught lobbying to weaken international air pollution laws¹⁴
- 18 December 2012: Mayor releases 750 pages of details about his lobbying to weaken air pollution laws¹⁵
- 18 July 2014: Boris Johnson: ‘bollocks’ to say Oxford Street has world’s worst pollution¹⁶ (after a top scientist said ‘there are reasons to believe many roads in central London will tend to have the highest NO₂ concentrations of anywhere’)¹⁷

At the same time the Foreign Office had “*responsibility for seeking to influence overseas perceptions of any problems that arose around the time of the Olympics*” (page 29)¹⁸.

<https://twitter.com/CleanAirLondon/status/1213205059686879242?s=20>

CAL has sought to warn the public about every HIGH or VERY HIGH air pollution episode for more than 10 years. But we have become increasingly frustrated by what we perceive is an unjustified reluctance by successive Governments to provide basic information. It may be that the Government hopes to avoid attention and questions about their lack of adequate action but the Inquest suggests it also deprives individuals, their families and doctors of vital information they might need to save lives.

The Government’s approach is like saying “We know smoking kills people but we don’t want to worry them.” They would do better to adopt Mayor Khan’s approach of prefixing every conversation about air pollution by saying that London’s air is toxic and killing people. After ‘toughing out’ the first two or three days of media attention (on the first occasion) the Mayor spends his time now simply debating whether he is going too fast or not fast enough to clean up our air.

As we head into the peak air pollution season for the year, let’s demand more from the Government, Defra, Public Health England and Met Office. Specifically, let’s press the Government for an ‘Ella’s Law’ to protect public health and fight climate change.

Perhaps we can avoid the next death from air pollution.

¹⁰ <https://cleanair.london/hot-topics/public-health-fraud/>

¹¹ <https://youtu.be/WUkyGkDOyYA>

¹² <https://cleanair.london/indoor-air-quality/boris-gets-nul-points/>

¹³ <https://cleanair.london/olympics/mayor-used-pollution-suppressor-to-save-himself-not-others/>

¹⁴ <https://cleanair.london/legal/mayor-caught-lobbying-to-weaken-international-air-pollution-laws/>

¹⁵ <https://cleanair.london/legal/mayor-releases-750-pages-of-details-about-his-lobbying-to-weaken-air-pollution-laws/>

¹⁶ <https://www.theguardian.com/environment/2014/jul/18/boris-johnson-bollocks-oxford-street-worlds-worst-pollution>

¹⁷ <https://www.londonair.org.uk/london/asp/news.asp?NewsId=OxfordStHighNO2>

¹⁸ <https://publications.parliament.uk/pa/cm201011/cmselect/cmcaff/581/581.pdf>