

Government Legal Department**20 January 2022**

By email only

Dear Madam,

**Our client Clean Air in London:
Breach of the National Emission Ceilings Regulations**

We write further to our recent pre-action correspondence and the disclosure of extensive information by you in October 2021, for which we thank you.

Our client has reviewed the information with the assistance of expert advice and remains of the view that there is a breach of the NECR as set out in our correspondence.

Separately, CAL understands that the Secretary of State ("SS") is proposing to produce a new National Air Pollution Control Programme ('NAPCP') by September 2022.

That proposal does not deal with CAL's complaints that (a) the Secretary of State has not implemented the current NAPCP and (b) that the SS should have started a review straight after the first forecast that 2020 ERCs would not be met.

CAL is therefore not satisfied that the proposal to consult on and implement a new Plan is sufficient to secure compliance with the regulations, both because there has been a failure to take immediate steps to implement the current plan and because the review should have been undertaken much earlier.

Nor is CAL satisfied with the response to its pre-action correspondence on which it has taken further legal advice.

The legal advice remains that the SS has misunderstood his obligations under the NECR.

CAL's objective is to ensure that the SS acts lawfully going forward. It believes that it may be possible to ensure this by constructively providing a copy of the legal advice for the SS rather than through litigation, although it reserves the right to challenge continuing and future breaches of the NECR.

We therefore attach a copy of the opinion and would be grateful if you would acknowledge safe receipt and confirm that its contents will be conveyed to DEFRA.

CAL proposes to publicise the opinion on its website and otherwise share its contents with those interested in securing clean and healthy air.

CAL hopes and expects that the SS will act in accordance with the law so that, if the information to be published in February 2022 confirms or reveals a current breach, then urgent action will be taken to ensure healthy air quality. CAL reserves its right to challenge new or continuing breaches of the regulations.

Yours faithfully

Harrison Grant

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