

Cleaner Air for Scotland 2 (CAFS 2) Strategy

Business and Regulatory Impact Assessment

October 2020

Title of Proposal

Cleaner Air for Scotland 2

Purpose and intended effect

The Cleaner Air for Scotland 2 (CAFS 2) strategy proposes a set of actions to further reduce air pollution and improve air quality for the benefit of Scotland's population and the environment.

This partial Business and Regulatory Impact Assessment (BRIA) is published in conjunction with the CAFS 2 consultation (<https://consult.gov.scot/environmental-quality/cleaner-air-for-scotland-2>) which runs until 22 January 2021. Responses to the consultation will help inform the development of CAFS 2 and this partial impact assessment.

Where required, subsequent secondary legislation will be used to deliver the commitments detailed in CAFS 2. Secondary legislation will be subject to further impact assessments including a partial and full BRIA and consultation.

Objective

During 2021, publish a new clean air strategy for Scotland that builds on the progress made since the introduction of Cleaner Air for Scotland: The Road to a Healthier Future (CAFS), Scotland's first air quality strategy separate from the rest of the UK, published in 2015. Measures in the new strategy will deliver environmental and social benefits and be informed by recommendations for delivering further air quality improvements from the independent CAFS review, completed in 2019. The strategy will also be aligned with current and planned policies in health, climate change, planning, energy, agriculture, environmental protection and transport to ensure multiple benefits and alignment across these key policy areas. The strategy focuses on 10 general themes:

- A Precautionary Approach.
- Integrated Policy
- Placemaking.
- Better Data.
- Public Engagement and Behaviour Change
- Environmental Regulation.
- Tackling Non-Transport Emissions Sources
- Transport Governance, Accountability and Delivery.
- Further Progress Review.

Background

The Government's Programme for Government 2018-19 committed to launching a review of CAFS. In November 2018, an independently led review of CAFS was

commissioned to assess progress since 2015 and to identify priorities for additional action over the next few years.

The review was overseen by a steering group which was supported by four expert working groups covering health and environment, transport, place-making and agricultural, domestic and industrial emissions.

The recommendations made by the independent review steering group, along with comments on the recommendations received via an online survey held at the end of 2019 have been used to revise CAFS. The intention is to republish the new strategy in the first part of 2021, following a public consultation on the proposals.

Rationale for Government intervention

In November 2018 the Cabinet Secretary for Environment, Climate Change & Land Reform announced an independently led review of Cleaner Air for Scotland, which was completed in July 2019. Although the Scottish Government committed to a review of the strategy five years after the 2015 publication date, it was decided to bring this process forward. Considering the First Minister's declaration of a global climate emergency, establishment of Low Emission Zones and major advances in knowledge around the human health impacts of air pollution, it is important to ensure that our air quality strategy remains fit for purpose.

Our work links to the UN Sustainable Development Goal 11: Sustainable Cities and Communities, particularly in relation to the goal of providing access to safe, affordable, accessible and sustainable transport systems for all and reducing the adverse per capita environmental impact of cities, including by paying special attention to air quality.

Ensuring sustainable planning and transport patterns, prioritising health and wellbeing at national and local government levels and ensuring we live in clean and unpolluted environments are key parts of the Scottish Government's Purpose. CAFS 2 particularly contributes to the Environment, Health and Communities outcomes under the National Performance Framework. Progress is measured through a reduction in air pollution emissions and improved air quality.

In addition air pollution, climate change, carbon reduction, and mobility are strongly interconnected. The Scottish Government is updating its Climate Change Plan to account for the new targets in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. The updated Plan will be published later in 2020. The Act commits Scotland to becoming a net zero society by 2045, with a 75% emissions reduction target for 2030 and 90% by 2040. Building on the initial policies set out in the Scottish Government's Programme for Scotland 2019-20¹ to end Scotland's contribution to climate change, the Climate Change Plan update will contain a wide range of measures that deliver air quality benefits and align closely with the aims of this strategy. Implementing the actions proposed in CAFS 2 will therefore contribute to delivering the net-zero emissions target

¹ <https://www.gov.scot/publications/protecting-scotlands-future-governments-programme-scotland-2019-20/pages/5/>

Consultation

Within Government

The following government agencies and departments have been consulted in the preparation of this Business and Regulatory Impact Assessment (BRIA)

- Transport Scotland provided advice on the transport recommendations from the independent review. A meeting was held on 24th January between the Scottish Government and Transport Scotland to discuss the transport recommendations in order to ensure CAFS actions are aligned with the Transport (Scotland) Act 2019 and the strategic direction set by the National Transport Strategy 2.
- Planning and Architecture Division provided advice on the placemaking recommendations from the independent review. A meeting was held on the 17th January. Discussion focused on alignment with the forthcoming National Planning Framework 4.
- Agriculture colleagues within Scottish Government provided advice on the agriculture recommendations from the independent review.

Public Consultation

We launched an online survey at the end of October 2019, via survey monkey, to obtain wider stakeholder comments on the review's conclusions and recommendations. The survey closed on 13 December and the responses have been analysed and informed the development of CAFS 2.

This partial BRIA accompanies the public consultation on CAFS 2. A Full BRIA that builds on the public consultation will then be published.

Business

The following organisations were members of the CAFS review Steering Group:

- Independent Chair
- Scottish Government (Environment)
- Scottish Government (Transport Scotland)
- Society of Local Authority Chief Executives (SOLACE) representative
- Chief Officer, Environment and Economy, CoSLA²
- Scottish Environment Protection Agency
- Health Protection Scotland
- Friends of the Earth Scotland
- Scottish Council for Development and Industry

² Joined in April 2019

Independent experts – Professor Tom Rye, Director of Transport Research Institute, Edinburgh Napier University; Dr Annalisa Savaresi, Lecturer in Law, University of Stirling; Mary Pitcaithly, former Chief Executive, Falkirk Council³.

The Steering Group was supported by four working groups which helped to segment and deliver the review's work. The working groups developed their own programme of work, meeting three or four times, corresponding and then providing a report on their discussions and recommendations. A list of the organisations involved in each of the working groups is provided in Annex 2.

A one day workshop was held in September 2019 with air quality officers from local authorities. The aim of the workshop was to facilitate wider discussion and liaison activity associated with the strategy, by providing views on the recommendations from the CAFS Steering Group report. No concerns were raised regarding adverse impacts on businesses as a result of the strategy. As part of the public consultation we will seek additional views on potential business impacts to help develop the final BRIA and actions within the new strategy.

As a part of the process of helping stakeholders to respond to the CAFS review and to make their own recommendations for the revised CAFS strategy, in November 2019, the Scottish Government supported Plantlife to host a stakeholder workshop to discuss the recommendations. The main aim of the workshop was to draw out expertise and build consensus among key stakeholders on the actions needed to protect wild plants, fungi and their ecosystems from the impacts of atmospheric nitrogen pollution, as well as the co-benefits for other Scottish Government priorities. At the workshop working group discussions focussed on the most effective ways to:

- Engage relevant stakeholders and motivate behaviour change to reduce atmospheric nitrogen pollution;
- Reduce ammonia (NH₃) emissions from farm fertilisers and livestock in Scotland;
- Reduce the ecological impacts of excess nitrogen deposited into nature from the air;
- Integrate these approaches into CAFS 2, the Nitrogen balance sheet and other policy and practice related to farming, forestry, climate change, public health, biodiversity and water.

Full proceedings and conclusions from the workshop will be published by Plantlife Scotland. A full list of participants and the introductory presentations are available on request from scotland@plantlife.org.uk

Next steps

We have considered the recommendations made by the independent CAFS review steering group, along with comments on the recommendations received via

³ Mary Pitcaithly stepped down in March 2019

the online survey held at the end of 2019. Development of CAFS 2 will progress during the remainder of 2020, whilst consultation responses will inform further development of the strategy, with the intention to publish the final strategy in the first part of 2021.

Options

Option 1 – Revise the CAFS strategy based on the recommendations made in the independent CAFS review steering group report, published in August 2019, along with comments on the recommendations received via the online survey held at the end of 2019. Following analysis of the public consultation responses, further provisions may also be developed. The strategy will be aligned with the Climate Change Plan, National Planning Framework 4 and National Transport Strategy 2 to ensure multiple benefits. Recommendations on new policy areas such as agriculture and domestic combustion will take account of Defra’s proposals outlined in the Clean Air Strategy for England as recommended by the review, as well as comments from the formal consultation. The strategy will draw policies together from cross government departments in to one overarching strategy on air quality.

Option 2 – Do nothing scenario. Continue with a transport focused strategy and do not update the strategy to take account of the independent CAFS review steering group report.

Sectors and groups affected

The CAFS 2 strategy will provide a framework for action. It is the actions that support the implementation of the strategy that will impact on people in Scotland, and not the strategy directly. For some, the impact of these potential actions will be direct, e.g. through restricting the sale of the most polluting domestic fuels and introducing a voluntary code of good agricultural practice to reduce ammonia emissions. For others it will be more indirect, e.g. through enhancements to our air quality.

Actions that could flow from the strategy may impact on fuel manufacturers and producers, local authorities, regulatory bodies, agricultural businesses and transport authorities, providers and manufacturers. Others sectors that may be affected are planning and energy. Any regulations to support the actions in CAFS will be required to undergo further impact assessments.

The impacts will be better understood after the consultation stage which will inform the finalised strategy and this partial BRIA, but it is likely that regulations to enact the actions required to tackle non transport emission sources will have the most direct impact.

Proposed measures for tackling non transport emissions sources in CAFS 2:

Domestic burning and agriculture are two sectors not addressed in detail in CAFS, but which make an important contribution to air pollution in Scotland.

Consideration of performance and standards for domestic fires, stoves and fuels,

and local authority powers to permit and control these, together with a refreshed approach to good agricultural practice have the potential to deliver significant improvements in air quality beyond current regulatory and management approaches.

Benefits

Option 1 – Reducing emissions of air pollutants has societal benefits as well as benefiting natural ecosystems, biodiversity and the wider environment. The redrafting process provides scope to review CAFS actions in terms of deliverability, relevance and impact in the context of a changed policy landscape (global climate emergency, Covid-19 pandemic, Low Emission Zones etc.) and growing evidence concerning the health impacts of air pollution. The new strategy will continue to focus on transport, placemaking, health and climate change themes, but will also develop new policy areas to tackle emissions from domestic combustion and agriculture which the independent CAFS review highlighted as having significant impacts on air quality.

Refreshing transport, placemaking and climate change actions in line with recent changes to legislation (Transport (Scotland) Act 2019, Planning (Scotland) Act 2019 and Climate Change (Emissions Reduction Targets) (Scotland) Act 2019) will ensure multiple benefits across these key policy areas.

Option 2- None. The majority of the original 40 CAFS actions have been completed, therefore further improvements in air quality through continued delivery of the existing strategy will be minimal. Failure to update the CAFS strategy will result in a strategy that is no longer fit for purpose given the significant changes in planning, transport and climate change legislation.

Costs

Option 1 - Actions from the CAFS review are recommended on pollution and transport data and monitoring, on regulatory and planning activity generally and practical actions for our cities and towns, on the approach taken to public health as a continuing and serious driver for change, on transport provision and its fit with planning, on further controls and guidance on mobility and domestic heating and agricultural activities, on engagement issues, on research needs and on improvements to governance. Lead delivery agencies for the majority of actions will be SEPA, Transport Scotland, Public Health Scotland, local authorities and the Scottish Government.

Although a cost benefit analysis for introducing a ban on the sale of wet wood, house coal and high sulphur domestic fuels has not yet been carried out, information from the BRIA produced by the UK Government to support a similar policy introduction in England can be used for comparison. Over a 10 year period from introducing a ban, the BRIA estimates total costs of £19.5 million against health and environmental benefits from emissions reductions of £7,858.3 million in the most likely scenario. Further detail can be found in the UK Government BRIA⁴.

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/867428/burning-wood-consult-ia.pdf

A similar assessment will be undertaken for Scotland prior to any policy introduction.

For agriculture, the main proposal is introduction of a code of good practice. As the code will be voluntary, there are no direct associated costs, although there will be costs for farmers who choose to adopt any of the voluntary measures. The Code of Good Agricultural Practice for Reducing Ammonia Emissions in England⁵ provides advice on financial and technical support for adopting voluntary measures. Support options for the Scottish code of practice will be considered during its development.

The provisions of the regulatory framework for industrial emissions in Scotland are wide ranging, comprehensive and provide a good level of protection for the environment as a whole, using the principles of best available techniques (BAT). Therefore any scope for requiring further reductions of air pollutant emissions on a compulsory basis must be considered very carefully. Any environmental benefits must be balanced against costs of regulation (for both industry and SEPA) and a robust justification provided for additional controls. Nevertheless, SEPA is currently working with 15 sectors which partially or fully cover industrial emission sources to encourage them to move beyond compliance on a voluntary basis.

For transport, proposals seek to increase modal shift to active travel and public transport in order to reduce transport emissions and improve local air quality. This will mean, amongst other objectives, providing a transport system that facilitates active travel choices, better public transport provision, embracing new technologies, and constraints upon private vehicle use, especially in urban centres where pollution and congestion are most acute.

The transport actions in CAFS 2 are aligned with the strategic direction set by the National Transport Strategy 2 (NTS 2). NTS 2 recognises that transport is crucial for our trade and competitiveness, within Scotland, across the UK and internationally. One of NTS 2's four priorities is 'Helps our economy prosper – will get us where we need to get to, will be reliable, efficient and high quality and will use beneficial innovation'. At the national level the Sustainable Investment Hierarchy will be used to inform future investment decisions and ensure transport options that focus on reducing inequalities and the need to travel unsustainably are prioritised.

In CAFS 2 there is a commitment to work with local authorities and SEPA to introduce LEZs into Scotland's four largest cities. Transport Scotland will lead on this work and a BRIA (Low Emission Zones – The Transport (Scotland) Bill measures) has been partially completed⁶. The BRIA found that costs of implementing an LEZ scheme will vary depending upon its geographical location, area of coverage and vehicles included within the scope. Whilst it is appreciated that there could be significant costs to industry and business which use or rely on

⁵ <https://www.gov.uk/government/publications/code-of-good-agricultural-practice-for-reducing-ammonia-emissions/code-of-good-agricultural-practice-cogap-for-reducing-ammonia-emissions#contents>

⁶ <https://www.transport.gov.scot/media/43120/bria-partial-august-2018-air-lezs-transport-bill.pdf>

vehicles which do not meet future LEZ emissions standards, precise costs and impacts to business, industry and individuals cannot be quantified at this stage.

The potential cost windows for different sizes of LEZ schemes (per council) over a ten year period are shown below although such costs may need to be refined as further evidence becomes available:

Size	Cost (£m)
Small (0.5km ²)	4.2 – 5.6
Medium (1.5 km ²)	9.9 – 14.1
Large (3 km ²)	17.5 – 26.0

There are funds available to help support businesses operating in LEZ areas such as the LEZ support fund available for taxi and bus retrofit. In addition a mobility fund has been introduced targeted at those facing difficulty in upgrading their car to meet LEZ standards

Other transport actions in CAFS 2 focus on promoting sustainable travel choices and reducing travel demand by promoting home working etc. These commitments will be achieved through engagement and awareness raising as well continuation of funding schemes that support active and low emission travel and are therefore unlikely to have a direct cost to business.

Option 2 – The original CAFS strategy is outdated given the changes to linked policy areas such as climate change, placemaking and transport, besides the considerable impact of the Covid-19 pandemic. If the CAFS strategy is not updated there is potential for policy conflicts. Air pollution is a complex multi dimensional issue. Whilst good progress has been made a lot remains to be done with, in some cases, potentially significant financial and societal implications. The costs of not taking further action will continue to impact us all, however, in terms of negative health impacts, congestion, public safety, loss of amenity and a failure to maximise the potential for better quality of life and ultimately improved economic performance. Such failure will only serve to further exacerbate health inequalities and overall risks to public health for much of the population, besides having wider implications for efforts to tackle the global climate emergency.

Scottish Firms Impact Test

CAFS 2 is a high level strategy. It is unlikely that measure in the strategy will have a direct impact, but rather it is the regulations and other measures which follow on which could generate costs and impacts for businesses. Any such regulations will be required to undergo further impact assessments. Responses to the formal consultation will help identify impacts of individual measures and will be used to further develop and finalise the strategy.

Competition Assessment

- Will the measure directly or indirectly limit the number or range of suppliers?

The proposals to ban the sale of house coal and wet wood will have an impact. Some wood supply businesses may need to invest in drying equipment and this could impact disproportionately on SMEs.

- Will the measure limit the ability of suppliers to compete?

No there are no measures in CAFS 2 which will limit the ability of suppliers to compete.

- Will the measure limit suppliers' incentives to compete vigorously?

No there are no measures in CAFS 2 which limit suppliers' incentives to compete vigorously

- Will the measure limit the choices and information available to consumers?

The range of domestic fuels available to consumers will be reduced, should the proposals to ban the sale of the most polluting fuels be put into effect.

As CAFS 2 is a high level strategy there are no measures that will have direct or indirect impacts on competition. Regulations to deliver commitments in CAFS 2 to tackle emissions from domestic (household) combustion may have an impact on some aspects of competition noted above, but any such regulations will be required to undergo further impact assessments.

Consumer Assessment

Qualitative information has been gathered from the independent review steering group report, along with comments on the recommendations received via an online survey held at the end of 2019.

A one day Cleaner Air for Scotland workshop was held in September 2019 with air quality officers from local authorities. The aim of the workshop was to get their views on the review recommendations, particularly the 10 high level recommendation on which the new strategy will be based.

Evidence gathered at this stage indicates general support for the high level recommendations in the independent CAFS review steering group report.

Test run of business forms

No new forms will be introduced.

Digital Impact Test

No digital impacts.

Legal Aid Impact Test

No impact identified. The strategy will not create a new procedure or right of appeal to a court or tribunal, any change in such a procedure or right of appeal, or any change of policy or practice which may lead people to consult a solicitor

Enforcement, sanctions and monitoring

CAFS 2 will not contain enforcement or sanctions

Implementation and delivery plan

The strategy will be implemented over five years, starting in 2021. Delivery organisations and timescales for delivery of specific actions will be set out in the delivery plan which will be developed alongside the redrafted strategy.

Post-implementation review

The strategy will be reviewed five years post publication

Summary and recommendation

This partial BRIA lays out the rationale behind CAFS 2. The consultation will be used to shape and finalise the strategy. The final BRIA will be informed by the consultation responses.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that

(a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



A handwritten signature in black ink, appearing to read 'R. Cunningham', written over a horizontal line.

Date: 26 October 2020

**Roseanna Cunningham
Cabinet Secretary for the Environment, Climate Change and Land Reform**

Scottish Government Contact point:
Andrew Taylor

Annex 1

Business Regulatory Impact Assessment Questions in the CAFS 2 Consultation Document

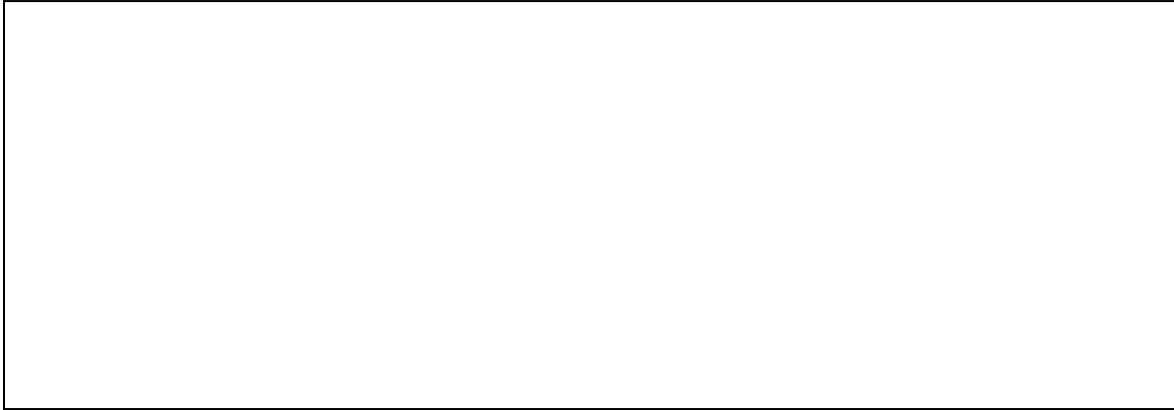
Q1. Are you aware of any additional business or regulatory impacts of the proposals in this strategy? Please provide any supporting evidence that you are aware of.

Q2. Do you anticipate that the proposals in this strategy will have differing impacts for large/small scale businesses? Please provide any supporting evidence that you are aware of.

Q3. Would there be different impacts for those that operate in Scotland only and those that operate across different parts of the UK? Please provide any supporting evidence that you are aware of.

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4. Would there be different impacts for those that operate in remote/rural or island communities? Please provide any supporting evidence that you are aware of.

A large, empty rectangular box with a thin black border, intended for the respondent to provide supporting evidence for their answer to question 4.

Annex 2

CAFS Review Working Groups

The Steering Group was supported by four working groups (WG) which helped to segment and deliver the review's work. These groups under a chair and deputy connected to the Steering Group established their own remits in conjunction with the steering group chair.

The working groups developed their own programme of work, meeting three or four times, corresponding and then providing a report on their discussions and recommendations.

The four working groups were:

- WG1 Health and Environment
- WG2 Emissions - Agricultural
- WG3 Planning and Placemaking
- WG4 Transport

Working Group Members

Working Group	Organisations
Health and Environment	British Heart Foundation Scotland
	British Lung Foundation Scotland
	COSLA
	Friends of the Earth Scotland
	Glasgow Centre for Population Health
	Glasgow City Council
	Health Protection Scotland
	Health Scotland
	Institute of Occupational Medicine
	NHS Lothian
	Scottish Environment Link
	Scottish Environment Protection Agency
	University of Glasgow
Working Group	Organisations
Agriculture, Industry and Domestic Emission	Agricultural Industries Confederation
	Centre for Ecology & Hydrology
	City of Edinburgh Council
	CPL Industries
	National Farmers Union Scotland (NFUS)
	Scottish Environment Protection Agency
	Scottish Government
	Stove Industry Alliance
University of Stirling	

Working Group	Organisations
Transport Working Group Members	British Heart Foundation Scotland
	City of Edinburgh Council
	Confederation of Passenger Transport
	Environmental Protection Scotland
	Freight Transport Association
	Friends of the Earth Scotland
	Glasgow City Council
	Living Streets
	Low Carbon Partnership
	Scottish Environment Protection Agency
	SesTRANS
	Society of Chief Officers of Transportation Scotland
	Sustrans
	Transform Scotland
Transport Research Institute, Edinburgh Napier University	
Transport Scotland	
Working Group	Organisations
Placemaking Working Group	Architecture & Design Scotland
	City of Edinburgh Council
	Glasgow City Council (representing Heads of Planning Scotland)
	Improvements Service
	Royal Town Planning Institute Scotland
	Scottish Council for Development and Industry
	Scottish Environment Protection Agency
	Scottish Government (representing Place Standard)
	SNH
	Transport Scotland



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