

**Title of meeting:** Cabinet

**Date of meeting:** 22<sup>nd</sup> June 2021

**Subject:** Clean Air Zone - Additional Exemptions, Sunset Periods and Fee Waivers

**Report by:** Tristan Samuels, Director of Regeneration

**Wards affected:** All

**Key decision:** No

**Full Council decision:** No

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## **1.0 Purpose of report**

- 1.1 Central Government has imposed a Ministerial Direction on the City Council to deliver a Class B charging Clean Air Zone (CAZ) to reduce levels of nitrogen dioxide to comply with at least the legal limit value in the shortest possible time.
- 1.2 A report was brought to Cabinet on CAZ Exemptions and Sunset Periods on 1<sup>st</sup> December 2020. Since then a number of groups have made the case for their vehicle types to be granted an exemption or sunset period. This report reviews and makes recommendations on these.

## **2.0 Recommendations**

It is recommended that Cabinet:

- 2.1. Approve a stop gap sunset period for non-compliant vehicles that have been unable to upgrade prior to CAZ Go Live, due to external factors outside of their control;
- 2.2. Approve a fee waiver for bus or coach services operating for the purposes of emergency rail or bus / coach replacement;
- 2.3. Approve a 2 year sunset period for the provision of domestic refuse collection vehicles, operating to deliver statutory services within Portsmouth, until end of October 2023;
- 2.4. Approve an exemption for up to 10 trips per year for horse transporters classed as heavy goods vehicles;



- 2.5. Reject the proposed exemption for motorhomes classified as private heavy goods vehicles;
- 2.6. Reject the proposed exemption for hybrid vehicles that do not meet the relevant euro standards for the CAZ; and
- 2.7. Reject the proposed exemption for pre-planned rail replacement services.
- 2.8. For the reasons of making the Charging Order, it is recommended that Cabinet do not consider any further requests for exemptions or sunset periods for the Portsmouth CAZ.

### **3.0 Background**

- 3.1 Air pollution is known to have a significant effect on public health, and poor air quality is the largest environmental risk to public health in the UK. Epidemiological studies have shown that long-term exposure to air pollution reduces life expectancy and exasperates pre-existing conditions such as respiratory and cardiovascular diseases.
- 3.2 The annual mortality burden of human-made air pollution in the UK is roughly equivalent to between 28,000 and 36,000 deaths. Short-term exposure to elevated levels of air pollution can also cause a range of effects including exacerbation of asthma, effects on lung function, increases in respiratory and cardiovascular hospital admissions and mortality.
- 3.3 The main pollutant of concern in Portsmouth is Nitrogen Dioxide (NO<sub>2</sub>). Public Health England advise that it is well established that NO<sub>2</sub>, particularly at high concentrations, is a respiratory irritant that can cause inflammation of the airways. There is currently no clear evidence of a threshold concentration of NO<sub>2</sub> in ambient air below which there are no harmful effects for human health.
- 3.4 In 2010 Air Quality Standards Regulations were introduced into English Law and set legal binding limits for concentrations of major air pollutants that affect human health, including nitrogen dioxide and particulates. Regulation 26 of this legislation requires the Secretary of State to develop and implement a national Air Quality Plan demonstrating how the limit values for air pollution will be achieved in the shortest possible time. Since 2010, the UK has been in breach of legal limits for nitrogen dioxide in many major urban areas.
- 3.5 Environmental campaign organisation ClientEarth have challenged the government's Air Quality plans in the High and Supreme Courts for failing to include the actions necessary to achieve the legal limit value for nitrogen dioxide in the shortest possible time. Each of the successful legal challenges brought by ClientEarth has results in an increased number of local authorities across the country being directed to take legal action to improve air quality in their area:



- 2015, Wave 1: Birmingham, Leeds, Nottingham, Derby and Southampton
- 2017, Wave 2: 23 additional local authorities: North Tyneside; Newcastle-upon-Tyne; Gateshead; Middlesbrough; Bury; Bolton; Salford; Trafford; Manchester; Stockport; Tameside; Sheffield; Rotherham; Coventry; Basildon, Rochford; Surrey Heath; Guildford; Rushmoor; Bristol; Bath & North East Somerset; Fareham; New Forest.
- 2018, Wave 3: 33 additional local authorities including Portsmouth. South Tyneside; Sunderland; Bradford; Calderdale; Burnley; Wakefield; Kirklees; Oldham; Sefton; Liverpool; Stoke-on-Trent; Newcastle-under-Lyne; Bolsover; Ashfield; Peterborough; Leicester; Blaby; Walsall; Wolverhampton; Sandwell; Dudley; Solihull; Cheltenham; Oxford; South Gloucestershire; Broxbourne; Southend-on-Sea; Reading; Basingstoke & Deane; Bournemouth; Poole; Plymouth; Portsmouth.

### Charging Clean Air Zone

- 3.6 The Government suggests that Charging Clean Air Zones are an effective way to deliver compliance with legal limits for nitrogen dioxide in the shortest possible time. Charging CAZs define areas that vehicle owners are required to pay a charge if they drive through or within. The charge only applies to older, more polluting vehicles, specifically diesel vehicles that are older than Euro 6 and petrol vehicles that are older than Euro 4.
- 3.7 The Clean Air Zone Framework sets out four different classes of charging CAZ, detailing the types of vehicles subject to a charge under each class:
- Class A: Buses, coaches, taxis and private hire vehicles
  - Class B: Buses, coaches, taxis, private hire vehicles and heavy goods vehicles
  - Class C: Buses, coaches, taxis, private hire vehicles, heavy goods vehicles and light goods vehicles
  - Class D: Buses, coaches, taxis, private hire vehicles, heavy goods vehicles, light goods vehicles and cars

### Ministerial Directions Issued to Portsmouth City Council

- 3.8 Portsmouth City Council has been issued with four Ministerial Directions. These place a legally binding duty on the Council to undertake a number of steps to improve air quality in the city:
- *Ministerial Direction 1 (March 2018)*: Required the Council to develop a Targeted Feasibility Study (TFS) by 31 July 2018 for two specified road links in the city: A3 Mile End Road and A3 Alfred Road. These two roads were selected as they were projected to have nitrogen dioxide (NO<sub>2</sub>) exceedances in Defra's national PCM model.
  - *Ministerial Direction 2 (October 2018)*: Following the results of the TFS, PCC were issued with a further Ministerial Direction in October 2018, this time to undertake a bus retrofit programme. The Ministerial Direction stipulated that the programme should be undertaken as quickly as



possible with the purpose of bringing forward compliance with legal levels of NO<sub>2</sub> on A3 Mile End Road and A3 Alfred Road.

- *Ministerial Direction 3 (October 2018)*: The third Ministerial Direction required PCC to produce an Air Quality Local Plan to set out the case for delivering compliance with legal limits for NO<sub>2</sub> in the shortest possible time. The Outline Business Case for this Plan was submitted in October 2019.
- *Ministerial Direction (March 2020)*: The fourth Ministerial Direction required PCC to implement a Class B charging Clean Air Zone, and supporting measures, in Portsmouth as soon as possible and in time to bring forward compliance with legal limits for nitrogen dioxide to 2022.

#### **4.0 Development of the Portsmouth Air Quality Local Plan**

- 4.1 In October 2019 a report was presented to this Cabinet detailing the contents of Portsmouth's Local Air Quality Plan that was produced in fulfilment of the ministerial directions detailed in paragraph 3.8 of this report. Following Cabinet approval the plan was submitted to central Government on 31st October 2019. After a thorough review the plan was formally approved by Ministers in March 2020. At this point PCC was issued with its fourth Ministerial Direction to deliver the Class B CAZ and while it is not PCC's preferred approach to deliver a charging CAZ, the Council is required to follow the process set out by central government to progress with its delivery.
- 4.2 At the Cabinet meeting on the 1<sup>st</sup> December last year, delegated authority was granted to the Cabinet Members for Environment & Climate Change and Traffic & Transport, in conjunction with the Section 151 Officer, to approve submission of the Local Air Quality Full Business Case to central government. This was submitted on the 21<sup>st</sup> December 2020 with approval granted on the 18<sup>th</sup> March 2021.
- 4.3 Although the Council is required to deliver the central government imposed charging CAZ, we are continuing to do what we can to reduce its negative economic impact on businesses in Portsmouth and the neighbouring areas. Since the Full Business Case was approved by central government, Portsmouth City Council Officers have been working hard to assist local businesses and vehicle operators to prepare for the introduction of the government imposed charging Clean Air Zone. Engagement Officers have been employed to work closely with vehicle operators who are likely to be impacted by the CAZ charges, and to support them in applying for funding to replace or retrofit their vehicles.
- 4.4 Grant funding is available through the Clean Air Fund. Drivers and vehicle operators who replace their vehicles through this funding are contributing to cleaner air for everyone in the city and surrounding area, and by driving cleaner vehicles they will not be liable for the CAZ charges. This funding is available to anyone who regularly drives a non-compliant vehicle through the CAZ (bus, coach, taxi or private hire vehicle older than euro 6 diesel or euro 4 petrol).



Portsmouth City Council is aware that many businesses based on the Isle of Wight with non-compliant vehicles regularly drive through the CAZ, and we would strongly encourage these businesses to apply to the Clean Air Fund.

- 4.5 Although the Clean Air Fund will enable many drivers and operators to upgrade their vehicles, it is acknowledged that for some vehicle types, in particular wheelchair accessible vehicles, the funding made available from central government through the Clean Air Fund is insufficient. Portsmouth City Council has therefore requested additional funding from central government to support drivers and operators of wheelchair accessible vehicles and we are currently awaiting a response.
- 4.6 The wider taxi and private hire trade are also being supported to make the switch to cleaner vehicles through the installation of rapid electric vehicle charging points for their use around the city.

## **5.0 Clean Air Zone Consultation**

- 5.1 On 16th July 2020 PCC launched a 6 week public consultation to seek views on the operation of the CAZ in Portsmouth. As noted in the consultation materials the purpose of the consultation was not to seek views on whether the public want to have a CAZ (this is not a choice; central Government are legally requiring that PCC deliver one) but on the specifics regarding how the CAZ should operate and to seeks views on the support that PCC can provide to help businesses and individuals to prepare in advance of the CAZ coming into operation, including sunset periods and exemptions. These provided a basis for the first round of local exemptions and sunset periods.
- 5.2 PCC has been issued with a Ministerial Direction to implement a Class B CAZ to bring forward compliance with legal limits for nitrogen dioxide to 2022. Therefore, any changes to the CAZ proposed through the consultation cannot be taken forward if they are demonstrated to affect the year of compliance.

## **6.0 Sunset periods and Exemptions**

- 6.1 A sunset period is a set time in which a specific group of non-compliant vehicles would not be required to pay the CAZ charge. It is expected that any noncompliant vehicles are replaced or upgraded to compliant types before the end of the sunset period, after which any remaining non-compliant vehicles are subject to the daily charge when entering the CAZ.
- 6.2 Similarly to a sunset period, an exemption allows a specific group of noncompliant vehicles to enter the CAZ without being charged. Where an exemption differs from a sunset period is that it is not time limited, but instead lasts for the life of the CAZ.
- 6.3 Some vehicles are nationally exempt from paying to enter any Clean Air Zone. These are:



- a vehicle that is ultra low emission
- a disabled passenger tax class vehicle
- a disabled tax class vehicle
- a military vehicle
- a historic vehicle
- a vehicle retrofitted with technology accredited by the [Clean Vehicle Retrofit Accreditation Scheme](#)<sup>1</sup> (CVRAS)
- certain types of agricultural vehicles

6.4 Under the Clean Air Zone Framework local authorities may set local exemptions and discounts. In general local exemptions can be granted for vehicles that are unsuitable for retrofit or prohibitively expensive to replace, and sunset periods may be granted for specialist or more novel vehicles that can become compliant in a suitable time. Exemptions and discounts can also be provided to groups identified as facing particular challenges.

6.5 Based on the consultation results last summer, a number of local sunset periods and exemptions were agreed at the 1<sup>st</sup> December 2020 Cabinet meeting. These were:

- Emergency Service Vehicles (Lifetime Exemption)
- Specialist Heavy Vehicles (Lifetime Exemption)
- Non-commercial vintage buses (Exempt 10 days per calendar year)
- School and community transport (2 year Sunset Period from CAZ launch)
- Wheelchair Accessible Taxi's (6 month Sunset Period from CAZ launch)

6.6 For any local exemption or sunset period, the operator/owner of the vehicle will be required to apply for registration on the local whitelist. In some instances it will be required that proof is provided; this could include a contract, photographs, license details or relevant permit.

## 7.0 Case for Additional Exemptions and Sunset Periods

7.1 Since the approval of the local exemptions and sunset periods, Portsmouth's engagement officers have continued to reach out to businesses and members of the public who may be affected by the introduction of the CAZ. Through this several additional potential Sunset Periods and Exemptions have been identified which could mitigate against the unintended impacts of the CAZ introduction.

7.2 Following discussions with the Air Quality Executive Board, the following recommendations are made to Cabinet:

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<sup>1</sup> <https://energysavingtrust.org.uk/service/clean-vehicle-retrofit-accreditation-scheme>



- A stop gap exemption should be granted for vehicles that have been unable to upgrade ahead of CAZ launch due to circumstances outside of their control
- A fee waiver is granted for emergency bus / rail replacement services
- Refuse Collection vehicles are granted a 2 year sunset period, on the basis that the fleet switches to using HVO fuel
- Horse transporters, classified as HGVs are granted an exemption for 10 trips per year into the CAZ

7.3 It was also recommended by the Board that the following sunset periods or exemptions not be taken forward, although they are included within this report for the Cabinets consideration:

- An exemption for pre-planned rail replacement bus services.
- An exemption for motorhomes classed as heavy goods vehicles
- An exemption for hybrid vehicles that do not meet the relevant Euro standards for the CAZ.

#### Stop Gap Sunset Periods

7.4 A Stop Gap Sunset Period could apply to all non-compliant, chargeable vehicles who have been unable to upgrade their vehicles in time for the introduction of the CAZ. This will apply where delays in the purchase of a new vehicle or in the retrofit process have meant that businesses are still operating non-compliant vehicles after Go Live. In almost all situations these delays would be caused by circumstances outside the control of the applicant; such as delays caused by Brexit or the Coronavirus pandemic. It may also be necessary in situations where an applicant is replacing a vehicle that cannot be retrofit with one that can, with the view to then retrofitting it, and there are delays in the process due to external factors, as above. These sunset periods would only be seen as a stop gap, with as short a life span as is possible.

7.5 Under the terms of the Clean Air Fund (CAF) grant, applicants have 4 months to upgrade their vehicles once approved for funding. In situations where funding has been approved but the CAZ is going live within that 4 month window, this sunset period could be applied, to last until the end of the 4 months. The CAF grant for HGV, Buses & Coaches is split into three rounds: round one which ran from 19<sup>th</sup> March - 19<sup>th</sup> April, round two that runs April to May, and round three (if any funding remains) which will continue from then onwards. It would be applicants in round 3 who would be most expected to benefit from the stop gap. The grants for taxi's and private hire vehicles are open on an ongoing basis, with over 100 vehicle upgrades already applied for.

7.6 The sunset period could also be applied to vehicles who are not entitled to the CAF but are still upgrading their vehicles. However, PCC would want sufficient proof that the applicant began their upgrade in good time and have only not completed due to factors outside their control. Therefore they should notify PCC in good time if there are issues which may cause them to continue to operate a



non-compliant vehicle past Go Live. Businesses approaching PCC for exemptions at or after Go Live will be judged with a higher degree of scrutiny.

7.7 The Air Quality Executive Board recommended that this option be progressed onto Cabinet for approval.

<b>Sunset Period</b>	<b>Who is eligible</b>	<b>Evidence</b>
Stop Gap Sunset Period	Businesses operating Heavy Goods Vehicles, buses, coaches, hackney carriages or private hire vehicles who are upgrading their vehicles/ replacement vehicles to be compliant with the CAZ who, due to external delays such as Coronavirus, Brexit or supply chain issues, have not been able to complete their upgrade in time for CAZ Go Live.	Evidence that shows the circumstances surrounding the delay, such as a letter from the supplier confirming the delay or expected completion time. For those upgrading their vehicles through the CAF, PCC have the ability to check-in with retrofitters to verify that vehicles are booked in. These will be judged on a case by case basis; officers will need to be satisfied that the business has done their utmost to upgrade their vehicles prior to Go Live. Applicants should not assume that they are entitled to this exemption.

Emergency Replacement Vehicles

7.8 In a situation where emergency replacement vehicles are required for rail travel services, such as where services have been suspended due to major signalling issues, and a compliant vehicle cannot be obtained at short notice to replace the service, it is recommended that a retrospective waiver of the fee be granted for the use of a non-compliant bus or coach.

7.9 Similarly, in the situation where a bus or coach has broken down within the CAZ boundary, or where the vehicle is heading to a destination within the CAZ, and a compliant vehicle cannot be obtained at short notice, it is recommended that a retrospective waiver of the CAZ fee be granted.

7.10 If a retrospective waiver was not granted, these vehicles would need to pay the £50 CAZ charge, or £100 if these vehicles were to enter the CAZ late at night and leave again the next morning, thereby incurring a charge for travelling through the CAZ on two separate days.



- 7.11 These situations are expected to occur infrequently, but will provide confidence to operators that they can utilise non-compliant vehicles as an emergency replacement without being charged, thereby reducing disruption to the transport network in the case of a broken down train or vehicle. PCC's Air Quality Engagement Officers will work with suppliers to encourage them to supply compliant vehicles wherever possible.
- 7.12 In order to identify the vehicle prior to a Penalty Charge Notice being issued, it must be identified within the online system no more than 6 days after the day of entry. In order to ensure that enough time is allocated for emergency applications to be identified and reviewed, it is proposed that the applicant must contact PCC within 2 days of entry (i.e. the day of entry and next day). Whilst the charge can be challenged once a PCN has been issued, this is not PCC's preferred solution.
- 7.13 The Air Quality Executive Board recommended that this option be progressed onto Cabinet for approval.

<b>Fee Waiver</b>	<b>Who is eligible</b>	<b>Evidence</b>
Emergency Replacement Vehicles	Bus /coach companies operating emergency rail replacement services, or emergency replacement bus or coach services where a vehicle has broken down either in or on-route to the CAZ.	Bus or coach company to submit online form justifying why a replacement vehicle was needed (such as an explanation of why an emergency service was required to be run in the CAZ, providing evidence where possible, such as a last minute booking from rail company. Applicant must submit this within 2 days (i.e. the day of entry + the next day).

Domestic Refuse Collection Vehicles

- 7.14 Portsmouth City Council have a statutory duty to collect domestic waste from over 92,000 households. Refuse is collected weekly, and recycling fortnightly. Additionally, there is a network of bring banks for glass, textiles and cartons.
- 7.15 The existing ten year refuse collection contract was due to end on 30 September 2021, however this has been extended until 30 September 2023. This is so that the new contract can incorporate any changes that come from the forthcoming Environment Bill, which includes changes to materials collected and method of collection. There may also be changes to funding through extended producer responsibility and also the introduction of a deposit return scheme. The Refuse Collection Vehicle (RCV) fleet will be renewed at the same time as the contract - by October 2023.



- 7.16 Replacement vehicles will be at least Euro 6 compliant. Electric RCV's are coming on the market and this option will be explored for 2023. Vehicle prices range from £180,000 for standard engines, to £400,000 for electric vehicles.
- 7.17 Whilst the existing fleet is suitable for retrofitting to make it Euro 6 compliant, experience of operating vehicles with these fitted suggests that the exhaust filters clog up when not run at a high temperature for a prolonged time (i.e. 2/3 hours motorway driving a day). The City's RCV fleet do very few miles as the city is so dense, and do limited motorway miles. Therefore such a retrofit solution is considered unsuitable for the RCVs operating in Portsmouth. In addition, as the RCV fleet will be replaced in October 2023 the retrofit funding would be better spent on vehicles with longer lifespans.
- 7.18 There is a requirement for 12 RCV's to operate within the CAZ, for which a sunset period has been applied. This is out of 21 RCV's in the PCC fleet. In any given week 9 of these will be operating within the CAZ, with an additional 3 vehicles needed to cover servicing and breakdowns.
- 7.19 If a sunset period is granted until October 2023, PCC will switch to using Hydro Treated Vegetable Oil (HVO) in place of diesel for the whole RCV fleet. HVO offers a direct fuel swap from diesel to HVO with no infrastructure costs. Emissions data indicates reduction of:
- CO<sub>2</sub>e of 90%
  - Hydrocarbon of 30%
  - Carbon Monoxide of 24%
  - Nitrogen Oxide of 9%
- 7.20 Portsmouth are aiming to reduce carbon emissions to net zero by 2030. The switch to HVO fuel will benefit this objective by significantly reducing the carbon emissions associated with refuse collection vehicles in the city.
- 7.21 The Neighbourhoods team are also working on a business case to procure an E-RCV to trial ahead of the whole fleet replacement. If procured this vehicle would be prioritised to the CAZ.
- 7.22 The Air Quality Executive Board recommended that this option be progressed onto Cabinet for approval, on the proviso that the whole of the RCV fleet switches to HVO fuel, and that if an E-RCV is trialled that this should be operated within the CAZ.

Sunset Period	Who is eligible	Evidence
Portsmouth's Refuse Collection Fleet	12 vehicles which either operate or act as replacement vehicles for operations in the CAZ	Contract with PCC for refuse collection as part of the City Councils statutory duties.



Pre-planned Rail Replacement Vehicles

- 7.23 An exemption has been requested for pre-planned Rail Replacement Vehicles. This exemption would be put in place when a train company must run rail replacement vehicles, usually buses or coaches, due to scheduled works.
- 7.24 In the situation where the train company has been unable to obtain CAZ compliant vehicles to run the rail replacement service, and can provide justification as to why these could not be obtained, a time limited exemption could allow non-compliant vehicles to operate within the CAZ.
- 7.25 It is estimated that scheduled rail replacement vehicles are run on average for 14 Sundays per year, and 8 Saturdays, with up to 14 vehicles per day of operations. Providing this exemption would encourage the continued use of sustainable travel. Where the council is informed of scheduled rail replacement work, it can suggest that the train operating company to obtain the services of compliant vehicles. As it will be the vehicle owner applying for the exemption, the bus or coach operator must obtain proof from the rail provider why they cannot source compliant vehicles for travel through the CAZ.
- 7.26 The cost of utilising a compliant vs non-compliant vehicle will not be seen as adequate justification for allowing an exemption for non-compliant vehicles. The following option was presented to the Air Quality Executive Board:

7.27

Exemption	Who is eligible	Evidence
Scheduled Rail Replacement Vehicles	Bus /coach companies operating scheduled rail replacement services.	Must provide proof from the rail provider evidencing why they are unable to source compliant vehicles, such as a letter on headed paper. V5 certificate for those non-compliant vehicles entering the CAZ. Applications must be received at least 14 days before the day of travel. Applications received later than this would not be guaranteed to be loaded onto the local Whitelist and will potentially be charged.

- 7.28 The Air Quality Executive Board have recommended that this option **not be** progressed onto Cabinet for approval. Pre-planned rail replacement services are scheduled in advance, therefore the rail companies have time to identify suppliers who are CAZ compliant. This differs from the previous proposed exemption for emergency replacement vehicles (see paragraph 7.8 - 7.13



above), which will need to be sourced at late notice. It may not be possible in those circumstances to source a Euro VI vehicle.

7.29 As pre-planned rail replacement services are known about in advance the rail company has the opportunity to source vehicles which are CAZ compliant.

Horse Transporters classified as Heavy Goods Vehicles (HGVs)

7.30 Horse transporters are available in a variety of weights and builds, some of which weigh over 3.5 tons and have a tax class of 'Private HGV.'

7.31 Those classed as LGV's will not be charged to travel through the CAZ, however, non-compliant vehicles, including those classed as 'Private HGV', would be charged for entry into the CAZ. These can be expensive to replace with newer, compliant vehicles.

7.32 There are a number of riding schools and stables on the Isle of Wight. Additionally, PCC have received several email correspondences from individuals on the Isle of Wight who travel on a non-commercial basis to the mainland in order to partake in equestrian trials. Unlike most other non-compliant vehicles, these will not be driving through the CAZ on a commercial basis.

7.33 The introduction of a CAZ charge could also serve as a financial obstacle to accessing essential equine medical services. PCC have been advised that there are no equine hospitals on the Isle of Wight, the closest being Liphook in Hampshire. The most direct route for many is to go via the Wightlink ferry. With this being included in the CAZ, this will add a £100 return fee onto the cost of seeking essential medical treatment. It's worth noting that whilst veterinary ambulances are covered under the Emergency Services exemption, private vehicles travelling to an equine hospital are not.

7.34 Some of the correspondence received indicates that horseboxes are travelling through Portsmouth up to once per month. Moreover, when they do so the outward and inward trips are often on different days. This means that the vehicle would be subject to a £100 return fee for travelling through the CAZ, unlike commercial vehicles who may enter and leave on the same day, thereby only incurring a £50 fee.

7.35 In the Bath CAZ, horse transporters can pay a discounted rate of £9 vs the standard £100 to drive through the CAZ. Whilst the Portsmouth CAZ is not set up in such a way as to allow for discounts, these vehicles could be offered an exemption.

7.36 If PCC were to offer an exemption to equestrian owners, there are different ways that this could be offered. The options are given below.

Option	Description
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Lifetime Exemption	Grant an exemption to horseboxes for the lifetime of the CAZ. These will be unlimited.
Exempt a set number of days each year.	Grant a limited exemption whereby the vehicle is exempt for a set number of days. Any trips over this limit will be subject to the CAZ fee.

7.37 If offering an exemption for a set number of trips per year, this will create an administrative burden on the council to monitor vehicle entries. Trips will either have to be logged before the day of entry or by the end of following day after the outbound trip (if outbound and inbound are on separate days). A similar process will be in place for non-commercial vintage buses. Whilst the number of trips probably varies between individuals, if some of these are multi-day this should be borne in mind when allocating the number of days allowed for travel through the CAZ.

7.38 It may be optimal to offer an exemption for 10 days of entry into the CAZ per year (the same as has been agreed by this Cabinet for non-commercial vintage buses) as this effectively offers a discount on any trips over and above this amount. It would allow for essential travel such as trips to the equine hospital within the allocated number of days, but still obliging those who travel through the CAZ regularly to pay the CAZ charge when they have used up their 10 days.

7.39 If a lifetime exemption were granted there would be no requirement to monitor trips. Applicants would just need to register for the exemption, however this option would allow potentially highly-polluting vehicles to enter the CAZ regularly, something the CAZ seeks to avoid.

7.40 For both options, the proposed eligibility criteria is listed below.

Exemption	Who is eligible	Evidence
Horse Transporters	Horse Transporters over 3.5 tonnes classed as 'Private Heavy Goods Vehicles.'  Horse transporters over 3.5 tonnes not classed as a PHGV are also eligible to apply for this exemption.	V5 Document Photos of the front, back, sides and inside rear of the vehicle. Exemption does not need to be renewed, applicant to alert PCC to any change in vehicle ownership.

7.42 Taking into account the concerns raised about the welfare of animals and the need for Isle of Wight residents to access specialist facilities on the mainland, balanced against the aim of the CAZ to reduce use of polluting vehicles, it is



recommended that horse transporters classified as HGVs are allowed an exemption for up to 10 trips per year.

Motorhomes classified as Private Heavy Goods Vehicles (PHGVs)

- 7.43 Some larger motorhomes are classed as Private Heavy Goods Vehicles (PHGV). This is the same class as many larger horse transporters would fall under. Whilst not commercial, these vehicles would still be charged under the Portsmouth CAZ where they are non-compliant (i.e. older than Euro 6 if Diesel or Euro 4 if Petrol).
- 7.44 PCC have received a small number of enquiries from members of the public around whether motorhomes will be exempt from the CAZ. Of those received so far all have been small, campervan type vehicles, classed as 'Vans' in the government CAZ checker and so non-chargeable. It is not known to what extent larger motorhomes pass through the city.
- 7.45 The Portsmouth International Port is outside of the CAZ. Traffic heading to or from the Port will not need to enter the CAZ. Therefore, the only vehicles affected by a decision on whether to grant an exemption would be those heading to or from the Wightlink ferry to the Isle of Wight.
- 7.46 Providing this exemption could potentially benefit the tourism industry on the Isle of Wight, although it is unclear how many of these larger motorhomes are in operation. Drawing on the data from the 2020 CAZ consultation, a high proportion of respondents to the Motorhome/ Campervan survey weren't aware of their DVSA type approval and hence whether or not they would be compliant. However, of the 19 respondents who were aware, only 2 owned a non-compliant vehicle (based on their vehicle type alone). This suggests that the number of non-compliant larger motorhomes driving through the CAZ to the Wightlink ferry would be minimal.
- 7.47 Bath allow a discounted rate for Private Heavy Goods Vehicles of £9 as opposed to the standard £100 for HGV's. Discounts are not an option available to the Portsmouth CAZ.
- 7.48 The Air Quality Executive Board discussed this exemption and concluded that this group of vehicles is similar to the horse transporters classified as HGVs, as both of these large vehicles are potentially high polluters. However, unlike the horse transporters the motorhomes are not providing access to services on the mainland (equine vets), and are for leisure use. Therefore, it is recommended that Cabinet do not approve the exemption for motorhomes classified as HGVs.

Hybrid Vehicles that do not meet CAZ euro standards

- 7.49 Central government's CAZ guidance says that vehicles which meet the definition of an ultra-low emission vehicle and minimum emissions requirements may apply for an exemption from the CAZ charge. These could include:



- Hybrid vehicles that otherwise do not meet the euro standard/age requirements for their type.
- Plug-in hybrid vehicles which are geo-fenced to operate in electric only mode within the zone.

- 7.50 A hybrid will be classed according to the petrol/diesel engine that compliments the electric. So a Euro 5 diesel hybrid will be classed as a Euro 5 diesel vehicle. It is then the local authority's decision to decide whether to exempt them or not.
- 7.51 In a Class B CAZ such as that Portsmouth are introducing, it is likely that any changes to make such vehicles exempt will apply only to taxis and private hire vehicles. It is unlikely that there are any Euro 5 diesel (or Euro 3 Petrol) hybrid HGV's, buses or coaches operating in Portsmouth.
- 7.52 Bath & North East Somerset Council has made the decision to exempt hybrid vehicles which enter their CAZ, regardless of age. This means that hybrid taxis who are ordinarily be classed as non-compliant (i.e. older than 2015 if Diesel and older than 2006 if Petrol) are allowed to travel within the CAZ charge-free.
- 7.53 Birmingham are charging vehicles according to their Euro standard, and not taking into account whether a vehicle is hybrid. Therefore, a diesel vehicle that does not meet Euro 5 standards or a Petrol vehicle that doesn't meet Euro 4 standards will be charged to enter the Birmingham CAZ, regardless of whether they are hybrids.
- 7.54 Within the Portsmouth licensed Hackney Carriage and Private Hire fleet, there is believed to be only one hybrid vehicle which would be liable for the CAZ charge, out of the 87 hybrid vehicles licensed with Portsmouth (May 2021). The owner of this single non-compliant hybrid vehicle could be supported to replace his vehicle with a compliant type with a grant from PCC's Clean Air Fund.
- 7.55 There may be further hybrid vehicles licensed with neighbouring authorities who are CAZ non-compliant, who could benefit from an exemption for non-complaint hybrid vehicles. Approving this exemption could therefore offer an advantage to those drivers who license their vehicles with other authorities but operate their vehicles in Portsmouth.
- 7.56 The purpose of the CAZ is to achieve compliance with legal limits of NO<sub>2</sub> in the shortest possible time, through vehicle upgrades. By allowing Euro 5 hackney carriages or private hire vehicles to operate within the Portsmouth CAZ this is allowing non-compliant vehicles to continue to operate where they could reasonably be upgraded.
- 7.57 As noted in paragraph 7.51 above there are unlikely to be any hybrid HGVs, buses or coaches operating in Portsmouth, and as noted in paragraph 7.54, this proposed exemption would only benefit one private hire vehicle currently licensed with Portsmouth City Council. It is therefore recommended that an



exemption is not granted for hybrid vehicles that do not meet the required euro standards for the CAZ.

## 8.0 Further requests for exemptions and sunset periods

8.1 Portsmouth's charging Clean Air Zone is due to launch in November 2021. In order for charges to be issued once the zone is operational a Charging Order needs to be prepared, as set out in the Transport Act 2000. This legal document will set out the classes of vehicles to be charged and the level of charges, as well as the list of vehicles that will be granted an exemption or sunset period.

8.2 The order will need to be made at least three months ahead of the CAZ launching to allow time for testing of the system. To ensure that the order does not have to be redrafted at a later date, it is recommended that no further requests for exemptions or sunset periods are considered following this Cabinet meeting.

## 9.0 Reasons for recommendations

It is recommended that Cabinet:

9.1 **Approve a Stop Gap Sunset Period for non-compliant vehicles that have been unable to upgrade prior to Go Live, due to external factors outside of their control.** This recognises the willingness of partners to engage and shows good-will on behalf of the Council.

9.2 **Approve a fee waiver for bus or coach services operating for the purposes of emergency rail or bus / coach replacement,** given that it may be difficult to source compliant vehicles at late notice.

9.3 **Approve a 2 year sunset period for the provision of statutory refuse collection within Portsmouth, until October 2023.** This is on the proviso that the whole of the RCV fleet switches to HVO fuel, and that if an E-RCV is trialled that this should be operated within the CAZ. This means that the vehicle fleet upgrade will be in line with new legislation expected in 2023.

9.4 **Approve an exemption for up to 10 trips per year for horse transporters classed as heavy goods vehicles,** acknowledging the balance between the purpose of the CAZ and the need for horse owners to travel through the CAZ to reach specialist equine facilities.

9.5 **Reject the proposed exemption for motorhomes classified as private heavy goods vehicles.** These are potentially heavily polluting vehicles used for leisure trips, rather than essential trips through the CAZ.

9.6 **Reject the proposed exemption for hybrid vehicles that do not meet the relevant euro standards for the CAZ.** There is only one vehicle licensed in Portsmouth that would benefit from this exemption, whereas it is unknown how



many taxi and private hire vehicles licensed outside of Portsmouth this exemption could benefit.

9.7 **Reject the proposed exemption for pre-planned rail replacement services.** These services are organised in advance the rail company has the opportunity to choose vehicles which are CAZ compliant.

9.8 **Approve the proposal not to consider any further requests for sunset periods and exemptions.** This will allow the charging order for the CAZ to be made in time for the CAZ launch.

## 10.0 Integrated impact assessment

10.1 An Integrated Impact Assessment has been undertaken and can be found appended to this report.

## 11.0 Legal implications

11.1 The Ministerial Direction dated 25 March 2020 requires the Council to implement the local plan for NO<sub>2</sub> compliance to ensure compliance with the legal limit value for NO<sub>2</sub> is achieved within the Council's area in the shortest possible time, and by 2022 the latest. Under section 85(7) of the Environment Act 1995, it is the duty of the Council to comply with any direction given to it.

11.2 As part of the submission of the Full Business Case to the Secretary of State back in December 2020, the Council was required to prepare and submit a draft Clean Air Zone Charging Order which needed to meet the requirements set out in the Transport Act 2000. The decisions of the Cabinet meeting dated 1 December 2020 have been reflected in the said draft Order. If approved, the recommendations contained in this Cabinet Report will have to be reflected in the Order.

11.3 It is important to ensure that by granting these sunset periods and/or exemptions, the Council will still be able to achieve compliance 'in the shortest possible time and by 2022 the latest' or else it risks being in breach of the Ministerial Direction and, in turn, be in breach of the Environment Act 1995.

11.4 The decision to grant sunset periods, exemptions as well as other supporting measures are subject to the new Subsidy Control rules (as set out in the EU-UK Trade and Cooperation Agreement (the "TCA")) which came into effect from January 2021, World Trade Organisation rules on subsidies and various free trade agreements which deal with Subsidy Control/State Aid matters. The TCA requires the UK to put in place an "effective system of subsidy control" ensuring that the granting of subsidies complies with six general principles set out in the TCA. As a result, the Government has launched a consultation on its proposed new approach to subsidy control in the UK which ended on 31 March 2021. The

Government has yet to publish the new rules on Subsidy Control, however, in the absence of such new rules, the Council is required to comply with the rules of the TCA, World Trade Organisation on subsidies and various free trade agreements in relation to Subsidy Control/State Aid.

**12. Director of Finance's comments**

12.1. The financial impact of the recommendations within this report is likely to be negligible in terms of the overall business case for the Clean Air Zone as originally submitted to JAQU.

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Signed by:

**Appendices:**

**Appendix 1-** Details of Correspondence Requesting Sunset Periods, Exemptions and Fee Waivers

**Appendix 2-** Air Quality Executive Board Paper- Proposed exemption for residential refuse collection vehicles

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
2019 Air Quality Annual Status Report	<a href="https://www.portsmouth.gov.uk/ext/documents-external/asr-defra-final.pdf">https://www.portsmouth.gov.uk/ext/documents-external/asr-defra-final.pdf</a>
Portsmouth Local Air Quality Plan Outline Business Case	<a href="https://www.portsmouth.gov.uk/ext/documents-external/env-aq-air-quality-plan-outline-business-case.pdf">https://www.portsmouth.gov.uk/ext/documents-external/env-aq-air-quality-plan-outline-business-case.pdf</a>
Clean Air Zone: Consultation Feedback	<a href="https://democracy.portsmouth.gov.uk/ieDecisionDetails.aspx?AllId=13630">https://democracy.portsmouth.gov.uk/ieDecisionDetails.aspx?AllId=13630</a>
Clean Air Zone - Exemptions, Sunset Periods & Hours of Operation	<a href="https://democracy.portsmouth.gov.uk/ieDecisionDetails.aspx?Id=1032">https://democracy.portsmouth.gov.uk/ieDecisionDetails.aspx?Id=1032</a>
Clean Air Zone Framework	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863730/clean-air-zone-framework-feb2020.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863730/clean-air-zone-framework-feb2020.pdf</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by ..... on .....

.....  
Signed by: