



Casework Summary **Report**

Case Overview

CMS-554 A complaint regarding NO₂ air pollution exceedances and alleged failures by the Secretary of State under the Air Quality Standards Regulations 2010 (AQSR).

Background/Complaints Summary
<p>On 18 July 2024, the OEP received a complaint alleging continued exceedances of legal NO₂ air pollution limits in England. The complaint asserted that the Secretary of State had failed to comply with associated duties under the Air Quality Standards Regulations (AQSR).</p> <p>The complaint followed the closure, in April 2024, of related European Commission infringement proceedings against the UK and included extensive supporting documentation, including historic correspondence between the complainant and the Commission with respect to those proceedings, and copies of the associated legal judgments.</p>
OEP Actions
<p>The OEP conducted a detailed assessment of the allegations set out within the complaint. We reviewed the documentation provided by the complainant. We also reviewed other relevant publicly available information, including the latest NO₂ roadside compliance statistics published by the Department for Environment, Food and Rural Affairs (DEFRA), and documents published by National Highways regarding its efforts to assess and tackle NO₂ exceedances along the Strategic Road Network (SRN).</p> <p>We also engaged directly with the Joint Air Quality Unit (JAQU) which includes DEFRA and the Department for Transport (DfT) to gather further information on the status of local and national air quality plans, and to understand how potential failures to finalise and/or implement those plans were being addressed.</p>
Conclusions and Outcomes
<p>Based on information provided to us by JAQU, we understand that, as part of the Government's 2017 UK plan for tackling roadside NO₂ concentrations, ministers directed 64 local authorities to consider measures to accelerate compliance with NO₂ limits in their respective areas. This has led to the introduction of measures in towns and cities across England aimed at reducing NO₂ levels.</p>

However, we found that there continue to be gaps in action to finalise and implement some of the resulting local authority plans. Our assessment found that several local authority NO₂ plans have still not been finalised and/or fully implemented in areas that continue to report exceedances. Our assessment also indicated that National Highway's plans may not be fully finalised and/or implemented in areas where the SRN reports exceedances.

As a result, we concluded that there may be ongoing serious failures to comply with environmental law. Specifically, we determined that there is an indication that the Secretary of State may have failed, and be continuing to fail, to comply with their duties under Regulation 17 and 26 of the AQSR.

However, we do not consider use of our enforcement functions would result in more rapid progress in addressing these possible compliance failures. We found that national NO₂ compliance trends are improving, and remaining reported exceedances are relatively isolated. We also sought and received assurances that there are processes in place to monitor and evaluate the relevant local authorities' and National Highways' progress in finalising and implementing pollution reduction measures in their respective areas, and these responsibilities sit with the JAQU.

We agreed with Defra that we will continue to monitor the progress of JAQU and the Secretary of State in relation to this matter and scrutinise whether work is being effectively undertaken to close the remaining gaps in the implementation of the Government's 2017 plan for tackling roadside NO₂ concentrations. This monitoring will take place in the form of recurring meetings between the JAQU and the OEP.

As part of our broader work programs, we will also continue to track and report on progress towards NO₂ concentration limit values under the AQSR, as well as NO_x emission reduction commitments under the National Emission Ceilings Regulations 2018, within the framework of our Environmental Improvement Plan progress reporting.