



CAMBRIDGE CITY SMOKE CONTROL AREAS, (SCA's), ENFORCEMENT & FEE POLICY

To:

Councillor Rosy Moore, Executive Councillor for Climate Action & Environment

Environment & Community Scrutiny Committee

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Report by:

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Wards affected:

All

Not a Key Decision

1. Executive Summary

- 1.1 There is enforcement action local authorities can take in smoke control areas, (SCA's), under Schedule 1A of the Clean Air Act 1993 (as amended by the Environment Act 2021).
- 1.2 Cambridge has three SCA's covering the west and centre of the city as shown on the Smoke Control Area Map a copy of which forms Appendix B of this report and which can also be found on the [Smoke pollution](#) page of the Council's website. These SCA's were designated in the 1960's following implementation of early clean air legislation that was brought in by the government in England owing to health concerns for citizens linked to the London Smog of 1952.
- 1.3 The enactment of the Clean Air Act 1993 (as amended by the Environment Act 2021) means that only authorised fuels should be burnt in association with chimneys of any buildings in these areas who have a smoke producing appliance. Alternatively, they should use a Defra approved appliance – this is known as an 'exempt appliance'. Details of authorised fuels and exempt appliances in England can be

found on the [Department of Environment, Food & Rural Affairs](#), (Defra), website.

- 1.4 At the time of initial clean air legislation and the designation of the 3 SCA's in Cambridge vessels were not deemed to be 'domestic dwellings' and so did not fall into the scope of the initial clean air legislation or therefore of Cambridge's 3 declared SCA's. There is now scope for vessels, (including moored vessels), to be included within our existing SCA's through the amendment of the Clean Air Act 1993 by the Environment Act 2021 provided certain conditions have been met which is not the case at the current time.
- 1.5 Now when smoke is emitted from a chimney in an SCA, the Council can issue a financial penalty, ranging from £175 up to a maximum of £300 per notice, to the person responsible where they are found not to be following the above requirements.
- 1.6 Government guidance references the need for local authorities to develop and document their own policy including in relation to how much they will charge those responsible for smoke emissions in SCA's.
- 1.7 The above has created a need for an encompassing policy setting out how the Council will carry out its statutory responsibilities in relation to this including enforcement of the legislative requirements and fee setting for issue of financial penalties.

2. Recommendations

The Executive Councillor is recommended to:

- 2.1 Approve the adoption of the proposed Cambridge City Smoke Control Areas, (SCA's), Enforcement & Fee Policy as attached in Appendix A of this report.

3. Background

- 3.1 Local authorities can declare specific areas within their jurisdiction as Smoke Control Areas, (SCA's).
- 3.2 Cambridge has three SCA's covering the west and centre of the city as referenced in the Executive Summary of this report and shown on the Smoke Control Area Map a copy of which forms Appendix B of this

report and which can also be found on the [Smoke pollution](#) page of the Council's website. These SCA's were designated following implementation of early clean air legislation that was brought in by the government in England owing to health concerns for citizens linked to the London Smog of 1952.

- 3.3 Schedule 1A of the Clean Air Act 1993, (as amended by the Environment Act 2021) details enforcement action local authorities can take, where proportionate / necessary against an occupier(s) of any building within a smoke control area found to be breaking smoke control rules.
- 3.4 Therefore the chimney of any building within these areas must either burn smokeless fuel or burn fuel within a Defra 'exempt appliance' as referenced in the 'Executive Summary' section of this report.
- 3.5 Local authorities, working to Government guidance, have delegation and a responsibility to monitor and inspect premises within SCA's to ensure that authorised fuels and appliances are being used.
- 3.6 If a breach of the rules occurs local authorities have powers to take enforcement action and can issue financial penalties to address non-compliance and secure air quality improvements.3.7 In respect of this the Council is therefore proposing the introduction of a Smoke Control Areas, (SCA's), Enforcement & Fee Policy.
- 3.8 The policy document forms Appendix A to this report and covers the following within its scope:
- 3.9 **Scope of the Policy & Enforcement** – Local Authorities are responsible for enforcing against non-compliance with Smoke Control Area rules: in accordance with Schedule 1A of the Clean Air Act 1993 (as amended by the Environment Act 2021).

The purpose of this policy is to set out how the authority will enforce this.

- 3.10 In the first instance, in line with its Corporate Enforcement Policy, the Council will engage informally with occupiers of buildings within SCA's as well as residents and businesses across the city in relation to responsible smoke control. The Council will offer advice on how the rules can be met.

3.11 When smoke is first detected to be coming from a chimney within an SCA, the local authority can issue a written warning known as an 'improvement notice' to the person(s) responsible in the first instance.

3.12 If they were to continue to emit smoke from said chimney despite this warning the local authority can then look to:

- Issue a notice of intent to the person(s) responsible.
- Issue a final notice with a financial penalty ranging from between £175 - £300.

3.13 **Exemptions** – These are detailed as follows: in Appendix 1 of the Smoke Control Areas, (SCA's), Enforcement & Fee Policy, Appendix A of this report:

- Steam trains.
- Road steam vehicles, for example traction engines, steamrollers, steam-powered cars, and lorries.
- Vessels i.e. moored vessels.
- Smoke from outdoor burning, this includes barbecues, chimineas and pizza ovens which are outside and not in a building.

3.14 Currently there are also certain fireplaces associated with Cambridge University Colleges that are specified as exempt within The City of Cambridge Smoke Control Order 1961. It has always been the case that some or all historic buildings can be exempted from smoke control area rules, this should be done in consultation with heritage sector representatives.

3.13 **Calculating financial penalties** – Where the Council decides to impose a financial penalty, they have discretion to determine the amount of penalty up to a maximum limit specified in the legislation, which has been set at £300 for each notice of intent issued.

3.14 If there are further smoke emissions from a chimney after issue of a notice of intent, the local authority can issue additional notices for each incident.

3.15 When determining a financial penalty, the Council will use a fee matrix as a guide to determine appropriate and proportionate penalty (amounts as a percentage of the maximum fine limits). A copy of this

fee matrix is contained within Appendix 2 of the policy document, which is attached as Appendix A to this report.

- 3.16 The person(s) to whom a notice of intent is issued has the right to object in writing to the Council to the proposed financial penalty within 28 days from the day after the notice was given.
- 3.17 The local authority can withdraw a notice of intent or a final notice at any time. They can also seek to reduce the amount of the financial penalty where appropriate.
- 3.18 The person(s) to whom a financial penalty is issued also has the right to appeal to the first-tier tribunal within the 28-day period, starting on the day after the final notice was given.
- 3.19 **Recovery of financial penalties** – If a person(s) does not pay a financial penalty imposed on them, the Council may ultimately take the person(s) to whom the penalty is issued to court to recover the money.

4. Implications

a) Financial Implications

Administration of this legislation and the associated requirements will be delivered through existing resources within the Residential Team, part of the Council's Environmental & Public Health Department. The ability to keep any income received from financial penalties will contribute to the overall cost of providing this service.

b) Staffing Implications

There are currently 9.6 FTE enforcement officers within the Residential Team, whose job role includes enforcement of non-compliance relating to private sector housing matters. An officer procedure and staff training in relation to enforcement of these rules will be implemented.

c) Equality and Poverty Implications

An Equality Impact Assessment has been completed and accompanies this report.

d) Net Zero Carbon, Climate Change and Environmental Implications

The Councils Climate Change Rating Tool has been used in respect of the implementation of the recommendations in this report and has indicated a Net Low Positive Rating owing to the following explanation:

The enforcement linked to this is limited to persons responsible for chimneys found to be emitting smoke in breach of smoke control rules within the three smoke control zones within the city. The scale of properties included in this means we estimate a low positive outcome through which the Councils intervention will secure a degree of air quality improvements. A higher positive outcome is not considered due to this and the fact that enforcement action will only be necessary in cases where responsible persons are persistently breaching smoke control rules even after being given an informal opportunity to change their behaviour.

e) Community Safety Implications

None.

5. Consultation and communication considerations

There is no requirement for any consultation in relation to this policy. Relevant parties will be made aware of this including the associated fee charging structure and the Policy will be made publicly available on the Council's website.

6. Background papers

Background papers used in the preparation of this report:

- [Clean Air Act 1993 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1993/41)
- [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/17)
- [Smoke control area enforcement by local authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/smoke-control-areas-enforcement-by-local-authorities-in-england)

7. Appendices

Appendix A - Cambridge City Smoke Control Areas, (SCA's), Enforcement & Fee Policy

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact Claire Adelizzi, Residential Team Manager, tel: 01223 457724, email: claire.adelizzi@cambridge.gov.uk.