

Report to the Cabinet

Date of meeting: Monday 17 March 2025



Portfolio: Technical Services Portfolio Holder

Subject: Smoke Control Area Review

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Recommendations/Decisions Required:

- 1) Cabinet considers on the options provided for smoke control areas within the district
- 2) Agrees a preferred option enabling public consultation to take place, and
- 3) Agree the Fixed Penalty Charge to be implemented.

Executive Summary:

This report sets out four options for the Council to consider. The Government's Air Quality Strategy priorities include the reduction of pollution from domestic burning through Smoke Control Areas (SCAs) and use of cleaner fuels. The strategy clearly states the Government's expectation that local authorities use their powers to reduce PM2.5 and that all councils should support the delivery of national PM2.5 targets by taking action to reduce emissions from sources within their control.

Reasons for Proposed Decision:

The Government's Air Quality Strategy priorities include the reduction of pollution from domestic burning through Smoke Control Areas (SCAs) and use of cleaner fuels. The strategy clearly states the Government's expectation that local authorities use their powers to reduce PM2.5 and that all councils should support the delivery of national PM2.5 targets by taking action to reduce emissions from sources within their control. It is officers' recommendation that the Council revokes the existing Smoke Control Orders and declares a new Smoke Control Order to cover a greater area of the district, including the more urban areas, such as towns and villages (Option 4).

Other Options for Action:

There are four options for change in this review of the Smoke Control Areas:

- 1) No change – retain all current designations.
- 2) Revoke all current designations
- 3) Declare the entire district as a Smoke Control Area
- 4) Expand the area of the district that is designated as a Smoke Control Area.
(Recommended)

Further information can be found in Appendix 1

Report:

1. Smoke Control Areas were introduced by the Clean Air Act of 1956 which was brought about following the London smog of 1952. They are designed to reduce the amount of smoke emitted from chimneys and therefore improve air quality. Following the introduction of Smoke control areas, a reduction in open fireplaces and the increase in gas appliances as well as the use of smokeless fuels saw a dramatic improvement in air quality, with reduced sulphur dioxide and smoke levels. The Clean Air Act and its amendments were consolidated in 1993, and the 1993 Act has been amended further by the Environment Act 2021.
2. Air pollution can impact health when there is exposure over a lengthy period increasing the risk of those being exposed to it of developing certain health conditions. One of the main pollutants of concern is particulate matter (PM), with the smaller particles, referred to as PM2.5, identified by the World Health Organization as the most damaging to human health. It is accepted that there is no safe level of PM2.5 pollution so any reductions of emissions of this pollutant, especially in locations close to where people live and are exposed to it, will be beneficial to health. Further information can be found in appendix 1.
3. Environment Act 2021 Changes

The Environment Act 2021 made amendments to The Clean Air Act 1993 and came into force on 1 May 2022 and

- Introduced civil financial penalties for smoke emissions in a SCA
- Strengthened the offences in relation to the sale of certain solid fuels for use in SCAs
- Provision to include moored vessels in a SCA (although this is not a requirement).

The recent change in legislation requires each local authority to set the level of the fine for fixed penalty notices, and this is an appropriate time to ensure that the application of the restrictions across our district is fit for purpose.

Neighbouring local authorities have been contacted and those further away within Essex, the degree to which this legislation has been adopted varies greatly. The more urban authorities (e.g. Enfield and Waltham Forest) have designated their entire area, whilst some authorities with a greater area of rural space have chosen not to designate any SCAs. Some of the southern authorities in Essex (Basildon, Brentwood and Thurrock) have chosen to designate parts of their district to date.

Air quality is a cross-boundary issue, and it is important to consider the action undertaken by neighbouring authorities so as to adequately protect but not overburden our residents. A proportionate and appropriate response would be to reflect the needs of the largely urban south and largely rural north that currently occupies the district.

4. The local authority has to set what it considers an appropriate level of fine for the local area. The legislation dictates that this fine must be not less than £175 and not more than £300. This is the amount payable per FPN, and an FPN can be issued for each offence witnessed by an officer.
5. As well as setting the fine, the local authority must also decide whether the fine is a flat rate per offence, is dependent on the seriousness of the offence, or whether the fine for subsequent offences should increase.

Three options are set out below by way of an example:

	First Offence	Subsequent Offences
Option 1	£175.00	£175.00
Option 2	£225.00	£300.00
Option 3	£300.00	£300.00

Enforcement will be reactive based on intelligence and complaints rather than proactive checks and will need to follow the Council's Enforcement Policy that encourages a reasonable and proportionate approach, there is the option to prosecute should FPNs fail to address the issue.

Scrutiny Comments

Please insert where its relevant to the report a paragraph entitled, e.g. "Scrutiny Comments" as above. Any pre-scrutiny and/or consultation undertaken can be included here. It can also be summarised below under "Resource Implications" in the "Consultation / Scrutiny Undertaken" section.

Resource Implications:

To be delivered within existing staff resources, may require some additional staff resources when the consultation is undertaken and to review the responses. £23,680 has been provided by DEFRA to support the authority in its review of its SCA.

Legal and Governance Implications:

There is a process of consultation for the revocation and designation of SCA's. DEFRA have provided recent webinars that officers have attended. DEFRA are available to support LA's undertaking their reviews.

Consultation Undertaken:

Before making a smoke-control order there is a legal requirement for the Council to undertake a public consultation exercise which, in addition to the normal channels, will include publishing a notice detailing the proposals in the London Gazette and a local newspaper.

The Council is required to consider any objections. An order shall come into operation not less than six months after it is made. The consultation on any proposed changes to the SCA coverage across the district for minimum of four weeks and will be widely publicised through our usual communication channels.

Background Papers:

N/A

Risk Management:

There are no changes to existing known risks.

Equality:

An Equality Impact Assessment was carried out and there was no significant impact.

(Please amend as required - Note the EIA must be carried out and retained but is not required to be submitted)