

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S
REPORT TO

Licensing and Public Protection Committee
Licensing and Public Protection Committee
05 December 2022

Report Title: Clean Air Act 1993 as amended – Review of smoke control areas and enforcement powers

Submitted by: Head of Regulatory Services & Environmental Protection Team Manager

Portfolios: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To seek authority from Committee to commence a formal review of the effectiveness of the existing smoke control areas currently in force within the Borough along with associated enforcement powers to achieve improvements in air quality emissions from chimney's serving buildings, in order to protect health and compliance with the Council Plan 2022 to 2026.

Recommendation

That

1. Committee approves of an officer led review of the options available to the Council to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.
2. Committee receives a report at its 13th March 2003 meeting outlining options to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.

Reasons

The Department for Environment and Rural Affairs (Defra) has reported that wood and coal fires are the single biggest source of PM_{2.5} pollution in the UK. Solid fuel burning within the Borough contributes significantly to levels of PM_{2.5} emissions in the Borough. PM_{2.5} is considered a particularly harmful pollutant with regard to human health. These tiny particles are able to travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy loss. A review of options and subsequent recommendations to improve emissions from chimney's will also help contribute towards Priority 3 –Healthy, active and safe communities of the Council Plan 2022 to 2026

1. **Background**

- 1.1 Air quality is the largest environmental health risk in the UK. It shortens lives and contributes to chronic illness. Health can be affected both by short-term, high-pollution episodes and by long-term exposure to lower levels of pollution.
- 1.3 In terms of costs to society recent research commissioned by Public Health England, "*found that the health and social care costs of air pollution (PM_{2.5} and NO₂) in England could reach £5.3 billion by 2035. This is a cumulative cost for diseases which have a strong association with air pollution: coronary heart disease; stroke; lung cancer; and childhood asthma.*
- 1.4 *When diseases with weaker evidence of association are also added, including chronic obstructive pulmonary disease; diabetes, low birth weight, lung cancer, and dementia, the costs could reach £18.6 billion by 2035. When all diseases are included, air pollution is expected to cause 2.4 million new cases of disease in England between now and 2035. PM2.5 alone could be responsible for around 350,000 cases of coronary heart disease and 44,000 cases of lung cancer in England over that time.*

- 1.5 *Even small changes can make a big difference, just a 1µg/m³ reduction in PM_{2.5} concentrations this year could prevent 50,000 new cases of coronary heart disease and 9,000 new cases of asthma by 2035.” (Source CLEAN AIR STRATEGY 2019 DEFRA, 2019).*
- 1.6 The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe.
<http://www.euro.who.int/en/mediacentre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-health-impact-of-air-pollution-in-europe>)
- 1.7 At the local level, estimated costs of the health impacts of air pollution from ultra-fine particulate matter alone is thought to be between £20 - 47 million for Newcastle-under-Lyme and between £39 – 93 million for Stoke-on-Trent. Costs to the NHS and Social Care are thought to be between £96 – 176 thousand for Newcastle-under-Lyme and between £189 – 349 thousand for Stoke-on-Trent. (Source: https://fingertips.phe.org.uk/documents/PHE_Air_Pollution_Setup.exe)
- 1.8 Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy

Issues

- 1.9 Smoke control orders were originally introduced by the Clean Air Act 1956 following the high number of deaths that had occurred during the London smog episode. Now replaced by the Clean Air Act 1993, local authorities can make orders so as to identify and designate land as a smoke control area, meaning that restrictions then apply to all premises within that area to prevent smoke being emitted from appliances or fuel.
- 1.10 In an area subject to a smoke control order, it becomes an offence to:
- allow smoke emissions from the chimney of a building;
 - obtain and use solid fuel, other than authorised fuel; and
 - sell by delivering solid fuel, other than authorised fuel, to premises located within the Smoke Control Area.
- 1.11 Exemptions do apply however. For example authorised fuels (such as anthracite, coke and coalite, and other ‘smokeless fuels’) can be used within smoke control areas because they burn either without causing smoke or that which contains less harmful pollutants. In addition, ‘exempt appliances’, such as ovens, wood burners and stoves, as specifically listed in regulations, can be used in Smoke Control areas as they have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting harmful smoke. It should be noted that authorised appliances can only be used for the fuel for which they are designed.
- 1.12 Unauthorised fuel, such as logs or coal, cannot be burnt in an open fireplace within a smoke control area. These fuels produce smoke containing harmful pollutants which have an impact on health and the environment.
- 1.13 Until recently unauthorised fuels could be bought and sold within a smoke control area because the seller or buyer could reason that it would be used outside the smoke control area or will be burnt in an exempt appliance. 6.
- 1.14 From 1 May 2021 it became an offence to sell an unauthorised fuel for domestic use under [The Air Quality \(Domestic Solid Fuels Standards\) \(England\) Regulations 2020](#). For example, it is now an offence for any person to supply a solid fuel including wood (unless it has a moisture content of less than 20%). It is also now an offence for any person to supply any manufactured solid fuel that has not been authorised and classified as an exempt fuel.

1.15 With a resurgence in the popularity of 'real fires' there are a number of solid fuel burning stoves in the market that comply with the legislation, and many already in use across the Borough are likely to be compliant.

1.16 However, Regulatory Services have noted an increase in the number of complaints and queries relating to smoke from domestic chimneys and wood burning in recent years and more so given the current high costs of gas and electricity caused by the war in the Ukraine. There is also growing public awareness surrounding the impact and harm caused by burning solid fuels and a desire to improve local air quality.

3. **Proposal**

1. Committee approves of an officer led review of the options available to the Council to achieve improvements in air quality emissions from chimney's serving buildings across the Borough in order to protect health.
2. Committee receives a further report at its 13th March 2023 meeting concerning the regulation of smoke from chimneys within the Borough of Newcastle under Lyme.

4. **Reasons for Proposed Solution**

4.1 The Department for Environment and Rural Affairs (Defra) has reported that wood and coal fires are the single biggest source of PM_{2.5} pollution in the UK. Solid fuel burning within the Borough contributes significantly to levels of PM_{2.5} emissions in the Borough. PM_{2.5} is considered a particularly harmful pollutant with regard to human health. These tiny particles are able to travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy loss.

5. **Options Considered**

5.2 Nil

6. **Legal and Statutory Implications**

6.1 The Clean Air Act 1993 (as amended) alongside associated guidance from DEFRA provides mechanisms to put in place modernised smoke control and provides a modern means of enforcement.

7. **Equality Impact Assessment**

7.1 The work does not impact on any protected groups or characteristics.

8. **Financial and Resource Implications**

8.1 There are no direct financial or resource implications coming out of this report with resources being met from the existing service budget.

9. **Major Risks**

9.1 A specific GRACE risk assessment has been prepared for this line of work. Those considered to be the most significant are identified below. Appropriate controls are in place to reduce these risks from being realised.

9.1 Failure to have adequate controls in place to enable the council to comply with its legal obligations under the Clean Air Act 1993 could result in formal intervention by the Government

9.2 Public bodies including local Authorities may also be subject to legal action for breach of a person's human rights specifically Article 2 Right to Life and Article 8: Respect for your private and family life.

10. **UN Sustainable Development Goals (UNSDG) & Council Plan 2022 to 2026**

- 10.1 The monitoring and assessment of local air quality, and the requirement for air quality management areas and associated air quality action plans contributes towards the following UN Sustainable Development Goals <https://sdgs.un.org/goals>



The following areas of the Council Plan 2022 to 2026 <https://www.newcastle-staffs.gov.uk/downloads/download/506/council-plan-2022-26> are also contributed towards

- Priority 1 – One Council delivering for Local People
- Priority 3 – Healthy, active and safe communities

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 There are none relating to this item.

13. **List of Appendices**

Appendix 1 - Map of Current Smoke Control Areas within Newcastle under Lyme

14. **Background Papers**

Statutory guidance - Smoke control area enforcement: local authorities in England
<https://www.gov.uk/government/publications/smoke-control-area-enforcement-local-authorities-in-england>

Appendix 1

