

**NEWCASTLE-UNDER-LYME BOROUGH**

**CORPORATE LEADERSHIP TEAM'S**

**REPORT TO**

**Licensing and Public Protection Committee**  
**24 October 2023**

**Report Title:** Clean Air Act 1993 – Consultation on the revocation of existing smoke control areas and declaration of a new Borough wide smoke control area

**Submitted by:** Service Director - Regulatory Services & Environmental Protection Team Manager

**Portfolios:** Sustainable Environment

**Ward(s) affected:** All

**Purpose of the Report**

To ask committee to approve the proposed consultation on the revocation of existing smoke control areas and declaration of a new single Borough wide smoke control area.

**Recommendation**

**That :-**

1. The making of the Newcastle-under-Lyme Borough Smoke Control (Revocation) Order 2023 is approved and that this be published for formal consultation. (As detailed in Appendix 2).
2. The whole of the administrative area of the Borough of Newcastle under Lyme a single smoke control area is approved through the making of The Newcastle-under-Lyme Borough Smoke Control Order 2023 and that this be published for formal consultation. (As detailed in Appendix 2).
3. The Formal Fixed Penalty Charging policy for Smoke Control Offences is approved (Appendix 3).
4. A further report is received for consideration, following closure of the relevant consultation periods, for consideration of any representations concerning either the Newcastle-under-Lyme Smoke Control (Revocation) Order 2023 or The Newcastle-under-Lyme Borough (Whole Borough) Smoke Control Order 2023.

**Reasons**

To comply with statutory requirements and in recognition of the expectations of the Council detailed within the "DEFRA Air quality strategy: framework for local authority delivery 2023"<sup>1</sup>. To ensure that all residents of the Borough are safeguarded against harmful emissions of fine particulate matter (PM<sub>2.5</sub>), by recognising that solid fuel fires are the single biggest source of PM<sub>2.5</sub> pollution in the UK and that solid fuel burning within the Borough contributes significantly to levels of PM<sub>2.5</sub> emissions and consequent exposure.

Given the known health implications of PM<sub>2.5</sub> and in recognition of the UK Governments' Revised National Air Quality Strategy 2023, that the whole of the administrative area of the Borough be declared a smoke control area. This is to include canal boats which are moored on the Trent and Mersey and Macclesfield Canals in the North of the Borough and the Shropshire Union Canal in the South of the Borough. To enable effective enforcement of smoke from chimneys in order to protect health.

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.

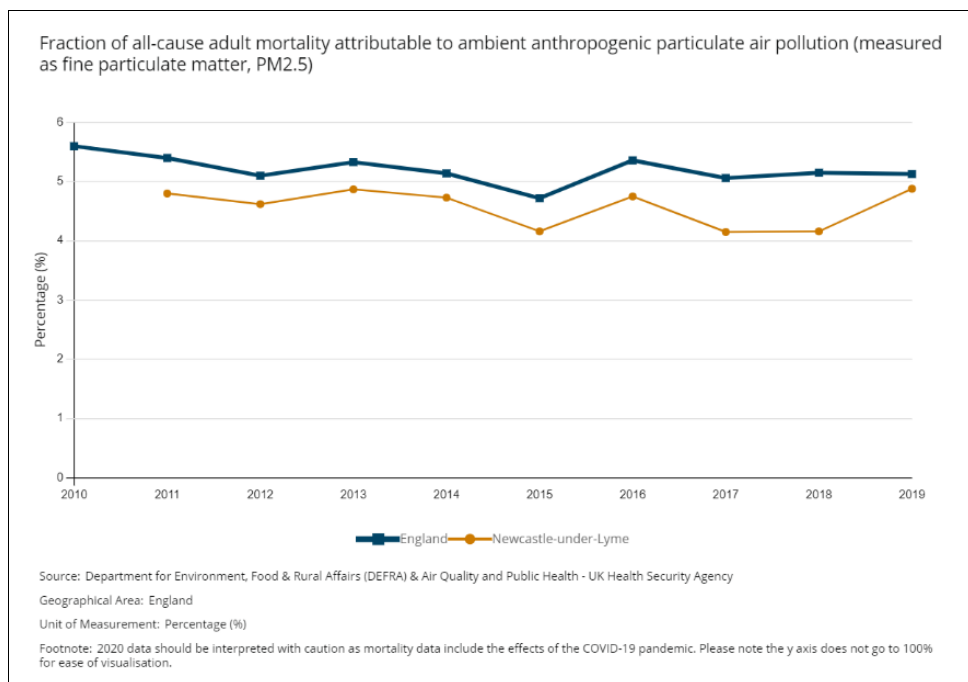
1.2 In terms of costs to society recent research commissioned by Public Health England, found

<sup>1</sup> <https://www.gov.uk/government/publications/the-air-quality-strategy-for-england/air-quality-strategy-framework-for-local-authority-delivery>

“ that the health and social care costs of air pollution ( $PM_{2.5}$  and  $NO_2$ ) 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. 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.  $PM_{2.5}$  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. Even small changes can make a big difference, just a  $1 \mu g/m^3$  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 UK CLEAN AIR STRATEGY 2019 DEFRA, 2019).

- 1.3 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>)
- 1.4 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](https://fingertips.phe.org.uk/documents/PHE_Air_Pollution_Setup.exe))
- 1.5 In terms of deaths, between 4 and 5 % of adult deaths in Newcastle under Lyme can be attributed to fine particulate matter. Between 2010 to 2019, the percentage attributable deaths have tracked those for England but have been slightly below during this period see **Figure 1**.



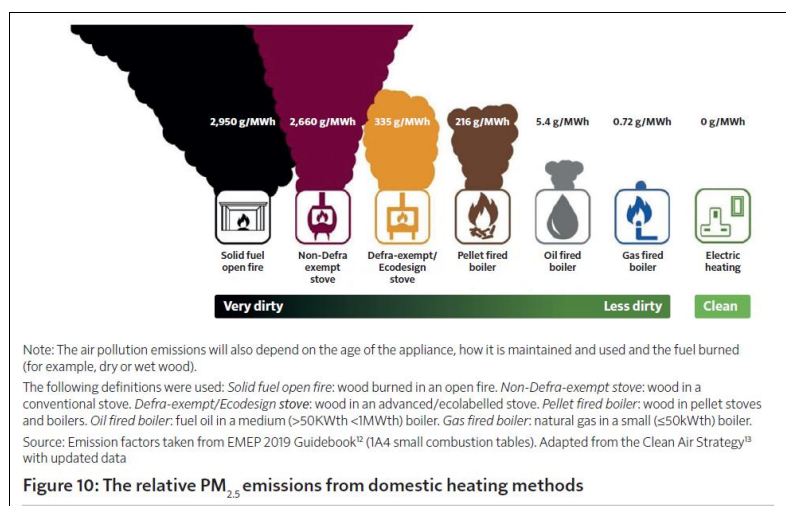
**Figure 1.** Fraction of all-cause adult mortality attributable to ambient anthropogenic particulate air pollution (measured as fine particulate matter,  $PM_{2.5}$  Newcastle under Lyme and England 2010 to 2019 (Source: <https://sdgdata.gov.uk/3-9-1/>)

- 1.6 For adults aged 30+ within Newcastle under Lyme, data from the Public Health Outcomes Indicator Framework, estimates in the region of between 70 and 90 deaths annually can be attributable to  $PM_{2.5}$  during the three year period 2018 to 2020, see **Figure 2**

District/County	2018			2019			2020		
	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths
Newcastle-under-Lyme	1334	5.7	80	1282	6.8	90	1548	4.7	70
Stafford	1336	5.8	80	1315	6.8	90	1565	4.5	70
East Staffordshire	1093	6.3	70	1128	7.3	80	1355	5.1	70
South Staffordshire	1211	6.3	80	1212	7.0	90	1418	4.9	70
Lichfield	1087	6.4	70	1093	7.2	80	1272	5.2	70
Staffordshire Moorlands	1108	5.2	60	1080	6.6	70	1276	4.5	60
Cannock Chase	976	6.4	60	908	7.2	70	1046	5.1	50
Tamworth	653	6.9	50	678	7.7	50	752	5.6	40
Stoke on Trent	2746	6.1	170	2490	7.2	180	3034	5.0	150
Staffordshire	8798	6.1	530	8692	7.0	610	10227	4.9	500

**Figure 2. - Public Health Outcomes Indicator Framework D01: Fraction of mortality attributable to air pollution PM<sub>2.5</sub>** (Source [www.fingertips.phe.org.uk](http://www.fingertips.phe.org.uk))

- 1.7 Burning wood and coal in open fires and stoves makes up 38% of the UK's primary emissions of fine particulate matter (PM<sub>2.5</sub>). Solid fuels are by far the most polluting method of domestic heating, and wood burning has increased in popularity over recent years. Reasons for burning wood and other solid fuels vary, and include aesthetic as well as practical, ecological or economic reasons.
- 1.8 For air pollution emissions, there is substantial difference between the different open fire and stove designs (Figure 3), the age of the appliance and how well maintained it is, and the moisture content of the wood, for those who want to burn wood. In urban areas, burning wood has the potential to adversely impact local air quality.



**Figure 3 - The relative PM<sub>2.5</sub> emissions from domestic heating methods.**

- 1.9 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.

## 2. Issues

### 2.1 Current Smoke control arrangements within the Borough

2.2 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. These were subsequently 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 (unless specifically exempted in the order) to prevent smoke being emitted from chimney's.

2.3 Between 1956 and 1994, there have been 40 smoke control areas declared in the Newcastle-under-Lyme Borough Council administrative area. A map showing the approximate location of

the smoke control boundaries can be found at Appendix 1 whilst a list of smoke control areas currently in operation within the Borough can be found in Appendix 2.

- 2.4 In a current smoke control area, it is an offence to: allow smoke emissions from the chimney of a building; obtain and use solid fuel other than controlled fuel; and sell by delivering solid fuel other than authorised fuel to premises located within the Smoke Control Area.
- 2.5 Exemptions to the orders do apply, 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, 'approved 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. Unauthorised fuel, such as logs or coal, cannot be burnt in an open fireplace within a smoke control area.
- 2.6 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. 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. For Newcastle under Lyme, these regulations are enforced by Staffordshire Trading Standards.

## **2.7 Smoke Control Areas for the 21st Century**

- 2.8 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. However, Regulatory Services have noted an increase in the number of complaints and enquiries relating to smoke from domestic chimneys and wood burning in recent years, more so recently given the current high costs of gas and electricity and associated increased costs of living. There is also growing public awareness surrounding the impact and harm caused by burning solid fuels and a desire to improve local air quality.
- 2.9 Your officers are currently unable to enforce the requirements in a large number of smoke control areas, as a number of the original orders have become outdated.
- 2.10 Furthermore, smoke control orders have not kept pace with the development of large areas of the Borough for housing and industrial use, such that there are significant numbers of the Borough's population whose health is not currently protected by smoke control legislation.
- 2.11 Where emissions from chimney smoke serving a building cannot be regulated, the only power which remains is to serve an abatement notice under Part III of the Environmental Protection Act 1990 where the smoke constitutes an actionable statutory smoke nuisance. Such complaints can be time consuming to investigate and difficult to establish as a statutory nuisance.
- 2.12 A new consolidated smoke control order would address these difficulties and enable officers to effectively regulate chimney smoke emissions and support efforts to safeguard health through improvements in air quality. It will be necessary to revoke the existing smoke control area orders through a revocation order and to put in place a new smoke control area order. The process for these is governed by Schedule 1 of the Clean Air Act 1993 and statutory guidance.
- 2.13 Smoke from garden bonfires, garden incinerators and burning in the open air is not covered by the subject of this report. There is separate legislation which may be used depending on the circumstances of the complaint and evidence obtained.

## **2.14 Fixed Penalty Notices for smoke control area offences**

- 2.15 In respect of enforcement, the recent amendments introduced into the Clean Air Act 1993 now provide for a fixed penalty notice (FPN), of between £175 and £300 to be served on the individuals responsible for the emission of smoke from a chimney.

- 2.16 Before a FPN can be served for a smoke control area offence, the individual must be served with a “notice of intent” which details the offence, the intended amount of the fixed penalty and the mechanism for making a representation on specified grounds to the Council against the proposed penalty.
- 2.17 Representations must be made within 28 days and must be determined and a written outcome provided within 56 calendar days of the representation being received.
- 2.18 Once a FPN is served, there is a right of appeal within 28 days to the General Regulatory Chamber of the First Tier Tribunal.
- 2.19 Where a FPN remains unpaid, it would be recoverable as a Civil Debt via the County Court as per section 1A of the Clean Air Act 1993. The Council’s approved Debt Recovery Policy details the recovery procedure to be followed in such circumstances.
- 2.20 The Council is also required to have a policy in place concerning the issuing of FPN’s for smoke control offences. This is produced in Appendix 3.

### 3. **Proposal**

- 3.1 That Committee approves the making of the Newcastle-under-Lyme Borough Smoke Control (Revocation) Order 2023 and that this be published for formal consultation. (As detailed in Appendix 2).
- 3.2 That Committee approves the whole of the administrative area of the Borough of Newcastle under Lyme a single smoke control area through the making of the Newcastle-under-Lyme Borough (Whole Borough) Smoke Control Order 2023 and that this be published this for formal consultation. (As detailed in Appendix 2).
- 3.3 That committee receives a further report for consideration, following closure of the relevant consultation periods, for consideration of any representations concerning either the Newcastle-under-Lyme Smoke Control (Revocation) Order 2023 or The Newcastle-under-Lyme Borough (Whole Borough) Smoke Control Order 2023.
- 3.4 That Committee approve the “Formal Fixed Penalty Charging Policy for smoke control offences” be brought to committee for consideration (Appendix 3).

### 4. **Reasons for Proposed Solution**

- 4.1 To ensure that all residents of the Borough are safeguarded against harmful emissions of fine particulate matter (PM<sub>2.5</sub>), and in recognition that solid fuel fires are the single biggest source of PM<sub>2.5</sub> pollution in the UK and that solid fuel burning within the Borough contributes significantly to levels of PM<sub>2.5</sub> emissions. At a national and international level, PM<sub>2.5</sub> 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. PM<sub>2.5</sub> levels within the Borough also contributes to a significant number of adult resident’s deaths.
- 4.2 Given the known health implications of PM<sub>2.5</sub> and in recognition of the UK Governments’ Air Quality Strategy, that the whole of the administrative area of the Borough be declared a smoke control area. This is to include canal boats which are moored on the Trent and Mersey and Macclesfield Canals in the North of the Borough and the Shropshire Union Canal in the South of the Borough.
- 4.3 To enable effective enforcement of smoke from chimneys in order to protect health.

### 5. **Options Considered**

- 5.1 To maintain the existing status quo with regards to existing smoke control areas. For the reasons stated there are difficulties in enforcing current requirements and this would not reflect scientific understanding of the negative impact of smoke emissions and associated fine particulates on health.
- 5.2 To revoke the existing smoke control orders and to replace these with an updated order covering urban areas. This excludes significant areas of the Borough where development has

taken place over time and areas of the Borough which have been identified for future development in the [Emerging Local Plan Consultation](#).

- 5.3 To revoke the existing smoke control orders and to replace these with a single Borough wide smoke control order. This is your officers preferred option and recommendation and recognises current evidence on the significance of chimney smoke emissions on health.

## 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 means of enforcement.
- 6.2 There are prescribed processes in statutory guidance and legislation which govern the revocation, modification and declaration of smoke control area orders. Officers have taken account of recent statutory guidance on smoke control areas produced by DEFRA in bringing this report to committee (See background papers). This includes advertisement and consultation arrangements.
- 6.3 Public bodies including local Authorities may 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.
- 6.4 The recommendations included in this report and the work being undertaken to improve air quality across the Borough are in line with legal requirements.

### **Fixed Penalty Notices**

- 6.5 The defence of any appeals against the service of a Fixed Penalty Notice will likely need assistance from the Council's Legal Service in order to prepare and present the Council's case.

## 7. **Equality Impact Assessment**

- 7.1 An Equalities Impact Assessment relevance test has been carried out. The relevance test established that this policy does not present either a medium or high detrimental impact to any of the protected characteristic groups, and as such a full EQIA is not required.
- 7.2 Officers will seek to use current approved community engagement channels to seek views on the proposed smoke control area and will also engage with recognised representatives of the canal community to seek their views.
- 7.3 Officers are also fully aware that some occupiers of domestic properties may have real difficulties in affording smokeless fuels or Ready to Burn wood or using suitable cured wood. Where solid or liquid fuels are the only means of heating a home, householders may be eligible for grant aid from various energy efficiency schemes such as [ECO4](#), [ECO4 Flex](#) and the [Boiler Upgrade Scheme](#). We would seek to publicise such schemes and any assistance to access them as part of our engagement with owners and occupiers at an early stage of any investigation alongside publicity associated with the proposal in this report.

## 8. **Financial and Resource Implications**

- 8.1 The consultation exercise on the revocations and the proposed new smoke control area and its subsequent publicity and enforcement will be met from the existing service budget. DEFRA have also provided new burden funding to local authorities to assist with enforcement of smoke control provisions.

### **Canal Boats**

- 8.2 For residential moorings of at least six months term which are in place at the time of the new smoke control area coming into force, the relevant Council is required to fund adaptations to enable suitable smokeless fuels to be burnt without emitting chimney smoke.
- 8.3 Discussions with the Canal and Rivers Trust has identified that there are no such residential moorings within Newcastle under Lyme at either Tyrley on the Shropshire Union Canal nor at Kildgrove on the Macclesfield Canal and the Trent & Mersey Canal which are for short stay use of up to 48 hours.

8.4 Signage will however be necessary to inform canal boaters that they are entering a smoke control area and DEFRA have suggested wording in their statutory guidance for inclusion that they must not emit smoke from chimneys of a moored vessel, along with the potential penalty for doing so. Emitting smoke from a chimney whilst underway or moving is exempt from the legal requirements.

8.5 There will be a need to erect signage at the Borough boundary of the canal network and at mooring places. The Canals and Rivers Trust have been approached regarding the costs for the provision and installation of this signage by them. It is anticipated that this can be funded from monies provided by DEFRA under the new burdens funding.

### **Private Dwellings**

8.6 Grants to fund adaptations to enable compliance with new smoke control orders are no longer payable by local authorities.

## **9. Major Risks**

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

9.2 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.

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

10.1 The following areas of the Council Plan 2022 to 2026 are also contributed towards Priority 1 – One Council delivering for Local People & Priority 3 – Healthy, active and safe communities <https://www.newcastle-staffs.gov.uk/downloads/download/506/council-plan-2022-26>

10.2 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>



## **11. Key Decision Information**

11.1 N/A

## **12. Earlier Cabinet/Committee Resolutions**

12.1 The December 2022 Committee approved an officer led review of enforcement options for smoke control area and for a report to be brought to this committee with proposals.

## **13. List of Appendices**

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

Appendix 2– Proposed smoke control area revocation order and smoke control area order

Appendix 3– Smoke Control – Fixed Penalty Notice Policy September 2023

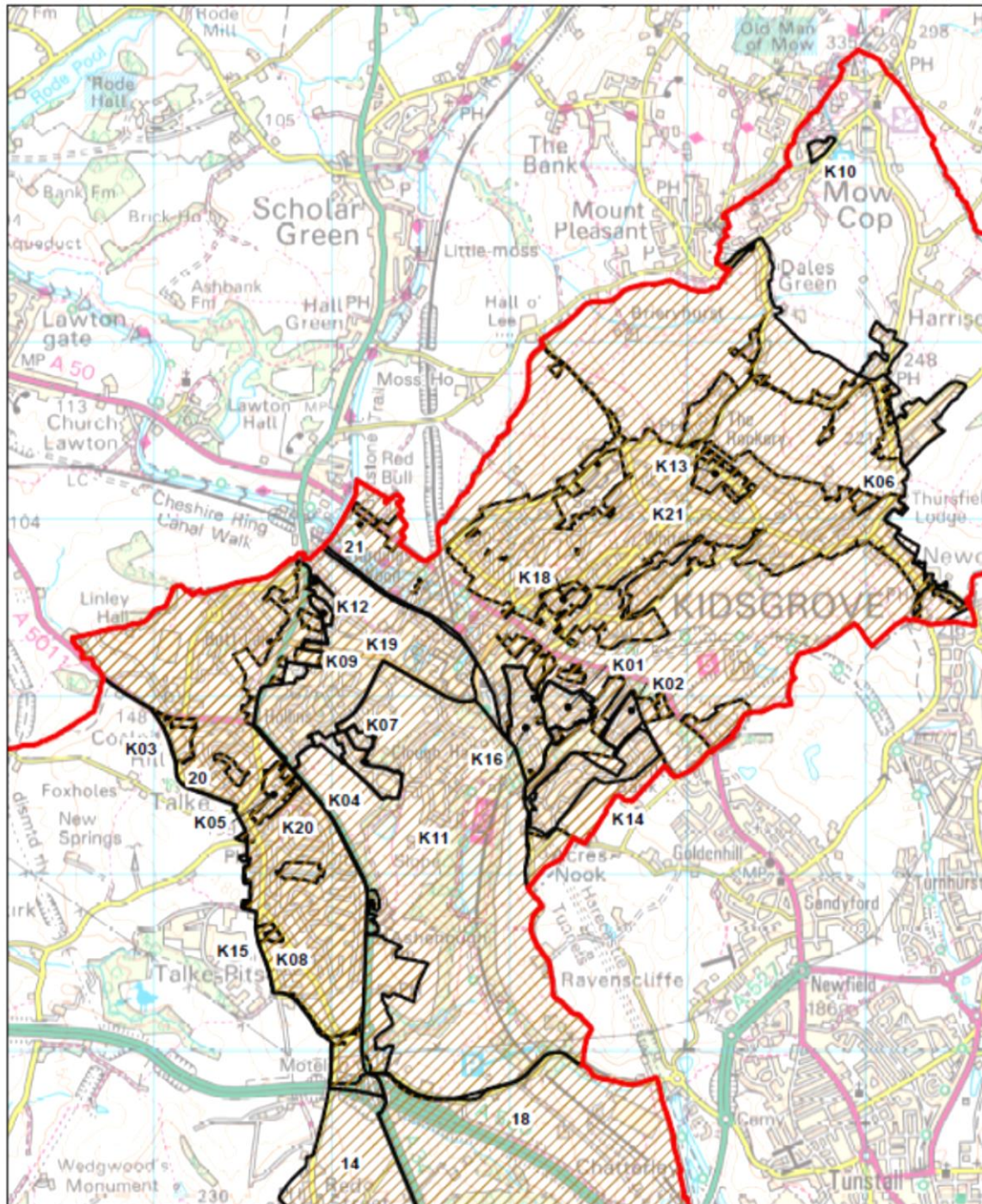
14. **Background Papers**

- [Clean Air Act 1993 Part III](#)
- [Guidance on smoke control enforcement](#)
- [Air Quality Strategy for England 2023](#)
- [Air Quality strategy 2023 - framework-for-local-authority-delivery](#)



**Appendix 1 - 2x Maps showing the current smoke control areas currently in force within Newcastle under Lyme as of September 2023**

## Smoke Control Areas

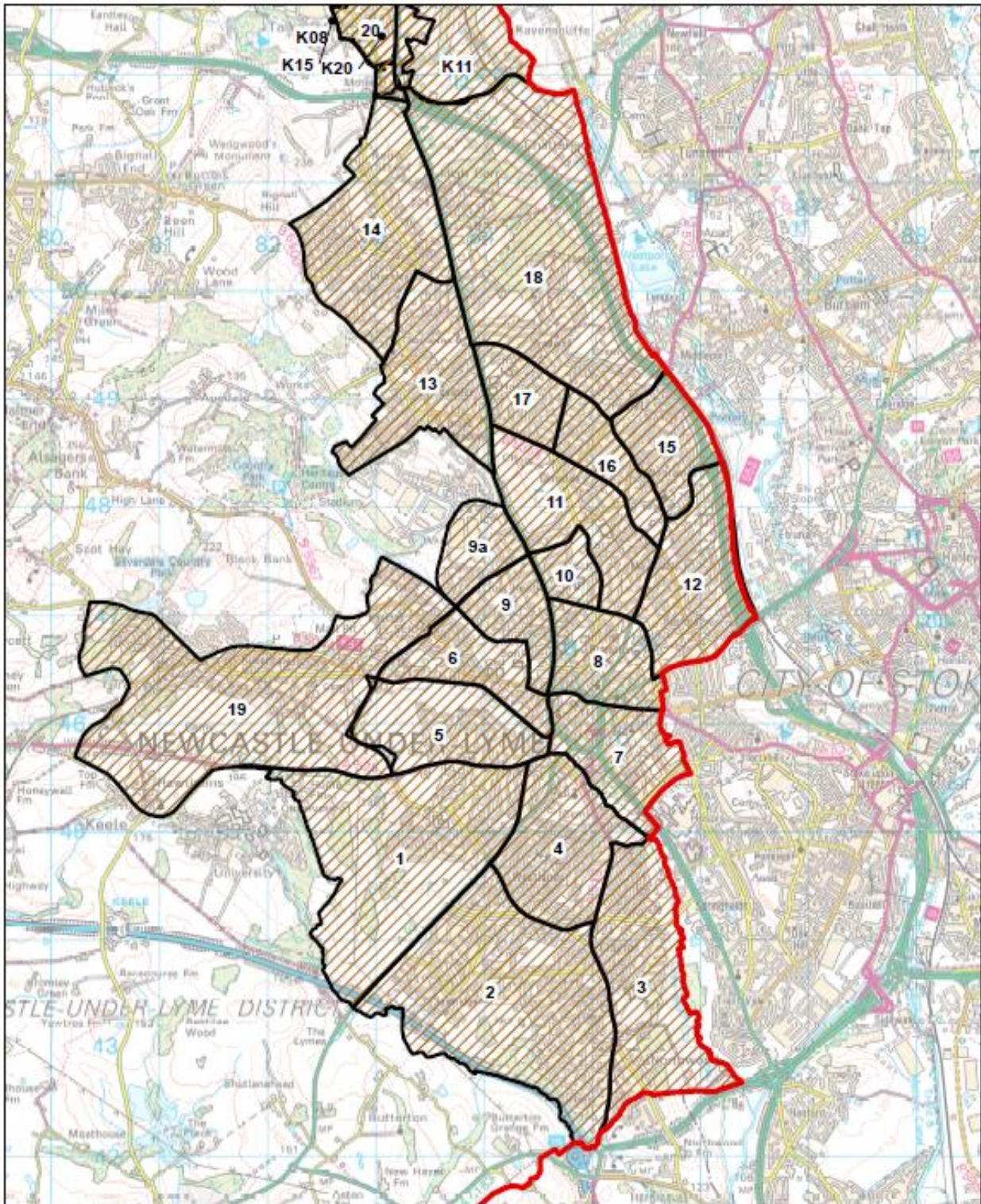


**Legend**



- Local Authority Boundary
- Smoke\_Zone\_edits

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# Smoke Control Areas



## Legend

-  Local Authority Boundary
-  Smoke\_Zone\_edits

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## Appendix 2 - Proposed smoke control area revocation order and smoke control area order



### Clean Air Act 1993 – Part III Newcastle-under-Lyme Smoke Control (Revocation) Order 2023 & The Newcastle-under-Lyme Borough Council (Whole Borough) Smoke Control Order 2023

Notice is hereby given that the Borough Council of Newcastle under Lyme (the Council), in the exercise of its powers under Part III of the Clean Air Act 1993 (the Act), as amended:

(a) on the xxxxx day of 2023, made an Order entitled, "the Borough of Newcastle under Lyme Smoke Control Orders (Revocation) Order 2023" (the Revocation Order);

And

(b) on the xxxxx day of 2023, made an Order entitled, "The Newcastle under Lyme Borough Smoke Control Order 2023" (the Proposed Smoke Control Order) declaring that the whole of the administrative area of the Council shall be a smoke control area for the purposes of the Act, subject to consideration by the Council of any objections, which are not withdrawn.

1. The effect of the **Newcastle-under-Lyme Smoke Control (Revocation) Order 2023** is to revoke all existing smoke control orders in operation in the administrative area of the Council set out in the Schedule 1, subject to confirmation by the Secretary of State.

If confirmed, it will remove all smoke controls for those parts of the Council's administrative area previously declared smoke control areas. If the Revocation Order is confirmed, with or without modification, it will not come into operation any earlier than six months from the date of confirmation.

2. The effect of **The Newcastle-under-Lyme Borough Council (Whole Borough) Smoke Control Order 2023**, if made, would declare the whole of the administrative area of the Council to be a smoke control area as set out in the Schedule 2, subject to confirmation by the Secretary of State.

The effect of this would be that if, on any day after the order comes into operation: -smoke is emitted from a chimney of any building or vessel moored within the administrative area of the Council, the occupier of that building, or moored vessel, is liable a civil financial penalty of up to £300, subject to any objection on the grounds specified by Section 19A of, and Schedule 1A to the Act;

3. any person who: -

- a. acquires any controlled solid fuel for use in a building or fireplace, other than an approved fireplace at the time of acquisition;
- b. offers controlled solid fuel for sale by retail where the fuel is to be taken away by the purchaser;
- c. fails to take reasonable steps to notify potential purchasers that it is an offence to acquire controlled solid fuel for any of the uses in 2.a. above;
- d. sells any controlled solid fuel by retail for delivery to a building;

covered by the Proposed Order will be guilty of a criminal offence and liable on summary conviction to level 3 fine on the standard scale (currently £1,000) for the offences under 2.a., or an unlimited fine for the other offences in 2.b.-d., subject to the statutory defence set out in Section 19B(6) of the Act in the case of a 2.d. offence. (Note: An "approved fireplace" means a fireplace of a type specified in a list published by the Secretary of State "controlled solid fuel" means any solid fuel other than an approved fuel. approved fuel" means a solid fuel specified in a list published by the Secretary of State.)

If the Proposed Order is made, it will come into operation on the date specified in the order being not less than six months after it is made, or such later date as the Council may specify.

Copies of the Revocation Order and the Proposed Order may be inspected free of charge at Newcastle under Lyme Borough Council, Castle House, Barracks Road, Newcastle under Lyme. ST5 2BL at all reasonable times during the period of six weeks from xxxx. Alternatively, either may be viewed on the Council's Website [www.newcastle-staffs.gov.uk/smoke\\_control\\_order\\_consultation](http://www.newcastle-staffs.gov.uk/smoke_control_order_consultation) Within that period any person who will be affected by the Revocation Order, or the Proposed Order, may object by notice in writing as follows:

- Objections to the proposed Revocation Order must be sent to the Secretary of State at: -Air Quality and Industrial Emissions, DEFRA Seacole Building, 2 Marsham Street, London SW1P 4DF or by email to [Air.Quality@defra.gov.uk](mailto:Air.Quality@defra.gov.uk)
- Objections to the making of the Proposed Order must be sent to: - Regulatory Services, Environmental Protection Team, Newcastle-under-Lyme Borough Council, Castle House, Newcastle under Lyme. ST5 2BL or by email to [environmental\\_health@newcastle-staffs.gov.uk](mailto:environmental_health@newcastle-staffs.gov.uk)

Signed \_\_\_\_\_  
Martin Hamilton

Chief Executive Date\_\_\_\_\_

This order also contains the following:-

- Schedule 1 – Smoke Control Orders to be revoked
- Schedule 2 – Map of area to be included within a Smoke Control Order

## Schedule 1 – Smoke Control Orders to be Revoked via the Newcastle-under-Lyme Smoke Control (Revocation) Order 2023



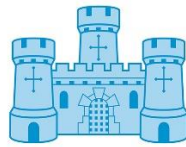
**NEWCASTLE-UNDER-LYME**  
**BOROUGH COUNCIL**

# Newcastle under Lyme Borough Council Smoke Control Area Orders in force

Order Name	Date Made	Effective from	Legislation	London Gazette Link
The Westlands (No. 1) Newcastle-under-Lyme (Area No. 1) Smoke Control Order, 1960	14th June 1960	six weeks from 29th July 1960	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/42105/page/5243">https://www.thegazette.co.uk/London/issue/42105/page/5243</a>
The Westlands and Clayton Newcastle-under-Lyme (Area No. 2) Smoke Control Order, 1962	2nd April 1962	six weeks from 17th day of April 1962	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/42651/page/3200">https://www.thegazette.co.uk/London/issue/42651/page/3200</a>
The Westlands and Clayton Newcastle-under-Lyme (Area No. 3) Smoke Control Order, 1963	7th January 1963	December 1st 1963	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/42901/page/723/data.pdf">https://www.thegazette.co.uk/London/issue/42901/page/723/data.pdf</a>
The Westlands Newcastle-under-Lyme (Area No. 4) Smoke Control Order, 1964	20th March 1964	1st July 1965	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/43291/supplement/3018">https://www.thegazette.co.uk/London/issue/43291/supplement/3018</a>
The Newcastle-under-Lyme (Area No. 5) Smoke Control Order, 1965	25th May 1965	1st July 1965	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/43677/page/5540">https://www.thegazette.co.uk/London/issue/43677/page/5540</a>
The Knutton, Newcastle-under-Lyme (Area No. 6) Smoke Control Order, 1966	1st March 1966	1st July 1967	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/43924/page/2862">https://www.thegazette.co.uk/London/issue/43924/page/2862</a>
The Newcastle-under-Lyme (Area No. 7) Smoke Control Order, 1967	16th August 1967	1st July 1968	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/44396/page/9507">https://www.thegazette.co.uk/London/issue/44396/page/9507</a>
The Newcastle-under-Lyme (Area No. 8) Smoke Control Order, 1968	13th November 1968	1st September 1969	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/44719/page/12416">https://www.thegazette.co.uk/London/issue/44719/page/12416</a>
The Newcastle-under-Lyme (Area No. 9) Smoke Control Order 1971	5th November 1971	1st December 1971	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/45524/page/12667">https://www.thegazette.co.uk/London/issue/45524/page/12667</a>
The Newcastle-under-Lyme (Area No. 9) Smoke Control Order, 1971	5th November 1971	31st December 1973	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/45530/page/12942">https://www.thegazette.co.uk/London/issue/45530/page/12942</a>
The Newcastle-under-Lyme (Area No. 9A) Smoke Control Order, 1975	23rd January 1975	6 weeks from the 7th February 1975	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/46486/page/1776">https://www.thegazette.co.uk/London/issue/46486/page/1776</a>
The Newcastle-under-Lyme (Newcastle No. IQ Area) Smoke Control Order, 1977	11th November 1977	6 weeks from 28th November 1977	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/47383/supplement/14519">https://www.thegazette.co.uk/London/issue/47383/supplement/14519</a>
The Newcastle-under-Lyme (Area No. 11) Smoke Control Order 1979	8th June 1979	6 weeks from 28th June 1979.	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/47885/page/7803">https://www.thegazette.co.uk/London/issue/47885/page/7803</a>
The Newcastle-Under-Lyme (Area No. 12) Smoke Control Order 1981	23rd July 1981	6 weeks from 3rd August 1981.	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/48707/page/10466">https://www.thegazette.co.uk/London/issue/48707/page/10466</a>
The Newcastle-under-Lyme (Area No. 13) Smoke Control Order 1983	17th January 1983	6 weeks from 31st January 1983.	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/49243/page/983">https://www.thegazette.co.uk/London/issue/49243/page/983</a>
Newcastle-under-Lyme (Area No. 14) Smoke Control Order 1984	24th October 1984.	1st April 1985	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/49906/page/14351">https://www.thegazette.co.uk/London/issue/49906/page/14351</a>
The Newcastle-under-Lyme (Area No. 15) Smoke Control Order 1985	22nd October 1984	6 weeks from 9th November 1984	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/49916/page/14823">https://www.thegazette.co.uk/London/issue/49916/page/14823</a>
The Newcastle under Lyme (Area No 16) Smoke Control order 1985	1st October 1985	6 weeks from 16th October 1985	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/50282/page/13970">https://www.thegazette.co.uk/London/issue/50282/page/13970</a>
The Newcastle-under-Lyme (Area No. 17) Smoke Control Order 1987	13th October 1986	6 weeks from 23rd October 1986	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/50724/page/15022">https://www.thegazette.co.uk/London/issue/50724/page/15022</a>
The Newcastle-wider-Lyme (Area No. 18) Smoke Control Order 1989	11th November 1988	6 weeks from 24th November 1988	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/51533/page/12895">https://www.thegazette.co.uk/London/issue/51533/page/12895</a>

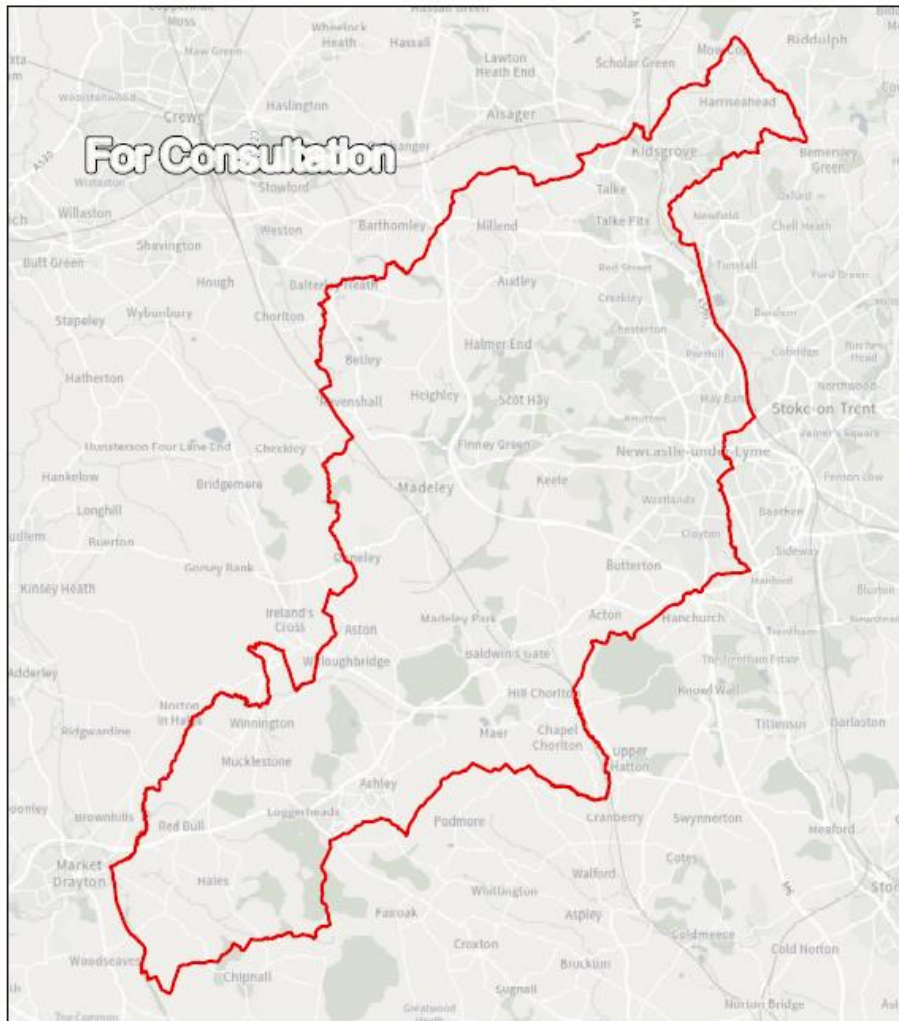
The Newcastle-under-Lyme (Area No. 19) Smoke Control Order 1993	19th April 1993	6 weeks from 29th April 1993	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/53287/page/7390">https://www.thegazette.co.uk/London/issue/53287/page/7390</a>
The Newcastle-under-Lyme (Kingsgrove Area No. 19) Smoke Control Order 1977	13th January 1978	6 weeks from the 2nd February 1978.	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/47448/page/1032">https://www.thegazette.co.uk/London/issue/47448/page/1032</a>
The Newcastle-under-Lyme (Area No. 19) Smoke Control Order 1992	22nd January 1992.	6 weeks from 30th January 1992	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/52818/page/1475">https://www.thegazette.co.uk/London/issue/52818/page/1475</a>
The Kingsgrove (Area No. 20) Smoke Control Order 1993	19th April 1993.	6 weeks from 29th April 1993	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/53287/page/7389">https://www.thegazette.co.uk/London/issue/53287/page/7389</a>
The Newcastle-under-Lyme (Kingsgrove Area No. 20) Smoke Control Order 1992	22nd January 1992.	6 weeks from 30th January 1992.	Section 11 of the Clean Air Act, 1956	<a href="https://www.thegazette.co.uk/London/issue/52818/page/1474">https://www.thegazette.co.uk/London/issue/52818/page/1474</a>
The Kingsgrove (Area No. 21) Smoke Control Order 1994	18th April 1994	6 weeks from 27th April 1994	Section 18 of the Clean Air Act, 1993	<a href="https://www.thegazette.co.uk/London/issue/53655/page/6243">https://www.thegazette.co.uk/London/issue/53655/page/6243</a>

Schedule 2 –  
 Area proposed to be included in the Newcastle under Lyme smoke control order 2023



**NEWCASTLE·UNDER·LYME**  
**BOROUGH COUNCIL**

**Clean Air Act 1993.**  
**Newcastle under Lyme Number 1 Smoke Control Order**  
**xxxxxxx 2023.**



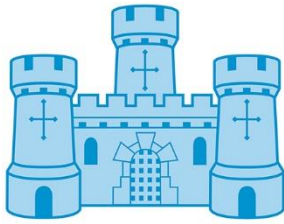
Proposed smoke control area delineated in red - this also applies to moored vessels on the canal network within the Borough



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**Appendix 3 Newcastle under Lyme Borough Council - Smoke Control Order Fixed  
Penalty Policy**

**Newcastle under Lyme Borough Council  
Smoke Control Order Fixed Penalty Policy**



**NEWCASTLE·UNDER·LYME**  
**BOROUGH COUNCIL**

Regulatory Services  
Newcastle-under-Lyme Borough Council  
Castle House  
Barracks Road  
Newcastle under Lyme  
Staffordshire  
ST5 2BL

Date: xxxx 2023

<b>Prepared by</b>	<b>Darren Walters</b>	<b>Regulatory Services Business Manager</b>
<b>Reviewed by</b>	<b>Nesta Barker</b>	<b>Service Director – Regulatory Services</b>

**Endorsed by the Council’s Public Protection Committee pursuant to minute number  
xxxxx**



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<a href="#">2.3</a>	<a href="#">Notice of Intent</a>	3
<a href="#">2.4</a>	<a href="#">Final Notice</a>	<b>Error! Bookmark not defined.</b>

## Appendices

**Note:** The template correspondence appended to this policy does not form part of this policy and may be amended from time to time.

- A. Current smoke control areas
- B. Written warning letter template
- C. Financial penalty template

## INTRODUCTION

The [Clean Air Act 1993](#) (as amended by the Environment Act 2021) provided local authorities with the legal means to control the emission of smoke from chimneys. There is a degree of flexibility in how each local authority can apply such controls. This policy draws on guidance issued to local authorities by DEFRA in May 2022<sup>2</sup>

Initially, the authority must declare a 'smoke control area' to define where the emission of smoke is to be controlled.

**As of (date to be agreed) and pursuant to Public Protection Committee Resolution \*\*\*\*\* the areas detailed within Appendix A have been declared as smoke control areas. The actual smoke control order(s) are detailed within Appendix B and detail any premises exempt from smoke control legislation.**

The rules cover smoke emissions in a smoke control area from:

- a chimney of any building
  - a chimney for the furnace of any fixed boiler or industrial plant
  - moored vessels, for example canal boats, if these are included in the scope of a smoke control area
- A building means any structure with a roof and walls. This could include a summerhouse or shed.

Where smoke is emitted from the above within a smoke control area, the council has the discretionary power (Schedule 1A) to issue a financial penalty; this is a civil matter, rather than a criminal offence. Where the smoke also constitutes a statutory smoke nuisance, whether or not from a chimney in a smoke control area, the Council can also serve a nuisance abatement notice under the amended provisions of section 79(1)(g) of the Environmental Protection Act 1990.

When smoke is emitted from a chimney in a smoke control area, the local authority can issue a financial penalty to the person responsible.

A financial penalty can be issued to any of the following for smoke emissions in a smoke control area:

- the occupier of the building with the chimney – for example, the homeowner or the tenant
- the owner of the fixed boiler or industrial plant that the chimney serves
- the occupier of the moored vessel, if you've included these in your smoke control area

Government guidance is that each local authority should have a policy to set out how financial penalties are to be applied.

This document sets out how Newcastle-under-Lyme Borough Council will apply the provisions of the Clean Air Act 1993 in relation to smoke from chimneys, in respect of when financial penalties are to be issued and the scale of fees.

This policy follows the principles of the current adopted Corporate Enforcement Policy<sup>3</sup>

Smoke emitted otherwise than from a chimney of a building is not covered by this policy. This is likely to include bonfires, open air BBQ's, pizza ovens. Action may however be taken under other legislation where smoke is identified as a statutory nuisance or is considered to be associated with unreasonable conduct of a persistent or continuing nature.

**Note:** The template correspondence appended to this policy does not form part of this policy and may be amended from time to time.

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<sup>2</sup> <https://www.gov.uk/government/publications/smoke-control-area-enforcement-local-authorities-in-england>

<sup>3</sup> <https://www.newcastle-staffs.gov.uk/directory-record/28/environmental-health-enforcement-policy>

## **POLICY**

### **WRITTEN WARNING**

The current guidance issued by DEFRA is that a local authority may issue a written warning (also known as an improvement notice).

The enforcement policy provides for the issue of informal advice where there is a minor breach of the law.

Within this context, the council will issue a written warning for a first offence, where it is appropriate in the circumstances to do so.

The council will provide a 7 day grace period against further enforcement following the first warning, to allow the responsible person a reasonable period to address the issue.

### **FINANCIAL PENALTY**

Where it is appropriate to do so, the council will issue a financial penalty under Schedule 1A. The financial penalty ranges from a minimum of £175 to a maximum of £300, to be set as part of council policy.

The financial penalty should consider the seriousness of the offence, and whether it is a repeat offence.

Where a financial penalty is issued for the first time, it shall be £175.

Second and subsequent financial penalties shall be £300.

The council will allow a one week grace period between the issue of financial penalties, to ensure that the responsible person receives correspondence from the council before further offences are enforced.

### **NOTICE OF INTENT**

Where it is intended to issue a financial penalty in accordance with this policy, the council is required to issue a notice of intent.

The notice of intent provides the recipient of the proposed financial penalty with 28 days to object the council's decision. The grounds of objection are:

- a) there was no smoke emitted from the chimney at the time given in the notice of intent.
- b) a smoke control order did not apply to the chimney at the time given in the notice of intent.
- c) the person sent the notice of intent was not responsible for the chimney at the time given in the notice of intent - in which case, they must provide the name and address of the person who was liable at the time (if they know).
- d) there are other compelling reasons why the financial penalty should not be imposed.
- e) (for moored vessels) the smoke emission was from the engine and was used to move it or provide it with electric power.

The onus is on the appellant to provide evidence to support their objection.

An appeal may be made on the grounds of a 'compelling reason' and will be assessed on a case-by-case basis, but will not consider general pleas of poverty as appropriate grounds.

Where the council allows an objection, it will withdraw the notice and inform the appellant of its decision in writing.

## **FINANCIAL PENALTY**

After consideration of an appeal to the Council, where the council considers it appropriate to issue a Financial Penalty this will be confirmed in writing within 56 days of the appeal being lodged. The Financial Penalty will also be issued at the same time

The recipient of a final notice has a 28 day right of appeal, which should be made to a First-Tier Tribunal. Rights of appeal are detailed on the Financial Penalty notice. The Council will abide by the decision of the First Tier Tribunal.

Non-payment of a Financial Penalty in full by the date stipulated will be treated as a Civil Debt. The council will pursue unpaid debts in line with the prevailing Debt Recovery Policy in order to maintain the integrity of its enforcement approach.

## Written warning template – use for minor offences or complaints

**Our ref:** APP«refno» / CRM«laref»  
Environmental Health Services

**Your ref:**

**Date:** «Aadate»

The Occupant(s)

«Paddress1»

«Paddress2»

«Paddress3»

«Paddress4»

«PADDRESS5»

Dear Occupant(s)

**Clean Air Act 1993 – Part III and Schedule 1A.**

**Re: Emission of smoke from a chimney within a designated smoke control area from «Paddress»**

### WARNING

**THE COUNCIL HAS RECEIVED COMPLAINTS ABOUT SMOKE FROM A CHIMNEY Should emissions of chimney smoke be evidenced, you may be liable for a Fixed Penalty Notice of up to £300 for each offence.**

On the DATE / TIME

I, «AAOFFNAME», «AAOFFJOB» being a duly authorised officer for the purposes of the Clean Air Act 1993 identified smoke emitting from a chimney located at «Paddress» do hereby formally advise you that «Paddress» is located in a designated smoke control area and that it is an offence to emit smoke from any chimney.

Insert photo here if available

### How to prevent a smoky chimney

To prevent this matter being taken further, I request that

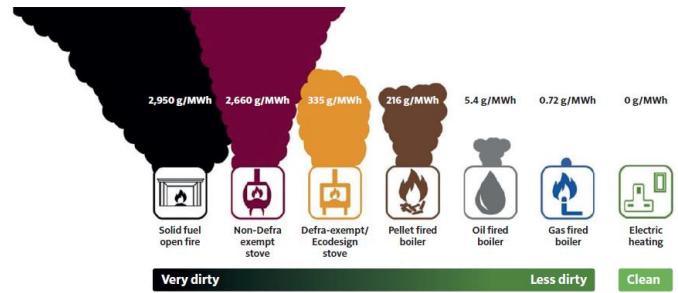
1. Cease emitting smoke from any chimney at this address
2. If you are burning on an open fire that only an authorised fuel is used or if using wood that you only burn wood which is branded as “Ready to Burn”. Details of authorised smokeless fuels can be found at <https://smokecontrol.defra.gov.uk/fuels.php?country=england>
3. If you wish to burn wood that this takes place in an “exempt appliance” operated in full accordance with the manufacturer’s instructions. Any wood should be checked to ensure it is properly seasoned, as excessive moisture can lead to smoke and also cause tar deposits on the flue. You can check the moisture content with a moisture meter which can be obtained from your fireplace installer, chimney sweep or online.

Details of exempt appliances and the rules that apply to the exemption can be found at <https://smokecontrol.defra.gov.uk/appliances.php?country=england>

## Health Impacts from smoke

There is a substantial difference between the least and most polluting methods of domestic heating, as shown in this graphic

For air pollution emissions, there is a substantial difference between the different open fire and stove designs, the age of the appliance and how well maintained it is, and the moisture content of the wood, for those who want to burn wood. In urban areas, burning wood has the potential to worsen local air quality significantly.



Note: The air pollution emissions will also depend on the age of the appliance, how it is maintained and used and the fuel burned (for example, dry or wet wood).  
 The following definitions were used: *Solid fuel open fire*: wood burned in an open fire. *Non-Defra-exempt stove*: wood in a conventional stove. *Defra-exempt/Ecodesign stove*: wood in an advanced/ecolabelled stove. *Pellet fired boiler*: wood in pellet stoves and boilers. *Oil fired boiler*: fuel oil in a medium (>50KWth <1MWth) boiler. *Gas fired boiler*: natural gas in a small (≤50KWth) boiler.  
 Source: Emission factors taken from EMEP 2019 Guidebook<sup>13</sup> (IA4 small combustion tables). Adapted from the Clean Air Strategy<sup>13</sup> with updated data

Smoke emitting from chimneys where unsuitable fuels are burnt or where appliances are not operated in accordance with the manufacturer's instructions are significant producers of fine particulate matter which is harmful to health as shown in this graphic . This in turn places additional burdens on the NHS and the wider economy and has also been shown to shorten life expectancy.

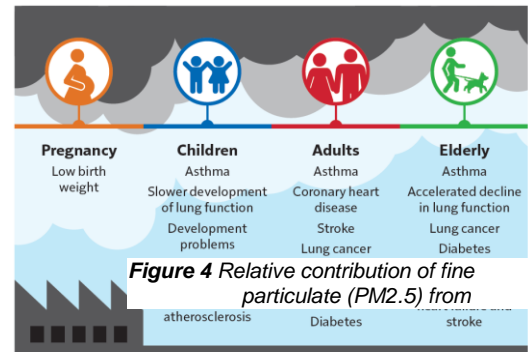
Accordingly, I now look forward to your co-operation in this matter.

Yours sincerely

«ioffname», «ioffjob»

Telephone: 01782 717717 [quoting APP«refno» / CRM«laref»]

Email: «ioffemail»



Source: Adapted from Public Health England (2018)

## NOTICE OF INTENT

**Our ref:** APP«refno»  
Environmental Health Services  
**Your ref:**  
**Date:** «Aadate»

«SERVED»  
«Paddress1»  
«Paddress2»  
«Paddress3»  
«Paddress4»  
«PADDRESS5»

Dear «SERVED»

### **Clean Air Act 1993 – Part III and Schedule 1A.**

### **NOTICE OF INTENT TO ISSUE A FINANCIAL PENALTY**

**Emission of smoke from a chimney within a designated smoke control area from «Paddress»**

On the DATE / TIME

I, «AAOFFNAME», «AAOFFJOB» being a duly authorised officer for the purposes of the Clean Air Act 1993, identified smoke emitting from a chimney located at «Paddress» and do hereby formally advise you that «Paddress» is located in a designated smoke control area and that it is an offence to emit smoke from any chimney.

Insert photo here if available

**I now intend to issue you with a Financial Penalty for £175 (First Offence) / £300 (second and subsequent offences) in relation to this matter.**

**Before doing so, I am required to advise that you may lodge a representation regarding the proposed Financial Penalty and the amount within 28 days of «Aadate»**

You have 28 days to object the council's decision. The statutory grounds for representation are:

- a) there was no smoke emitted from the chimney at the time given in the notice of intent.
- b) a smoke control order did not apply to the chimney at the time given in the notice of intent.
- c) the person sent the notice of intent was not responsible for the chimney at the time given in the notice of intent - in which case, they must provide the name and address of the person who was liable at the time (if they know).
- d) there are other compelling reasons why the financial penalty should not be imposed.
- e) (for moored vessels) the smoke emission was from the engine and was used to move it or provide it with electric power.

The onus is on the appellant to provide evidence to support their objection.

An appeal be made on the grounds of a 'compelling reason' will be assessed on a case-by-case basis, but we will not consider general pleas of poverty as appropriate grounds.

Where the council allows an objection, it will withdraw the notice and inform the appellant of its decision in writing within 56 days of the representation being received by the Council

**Representations shall be made in writing to:**

**Service Director – Regulatory Services  
Newcastle under Lyme Borough Council  
Castle House  
Barracks Road  
Newcastle under Lyme  
ST5 2BL**

**or by email to**

**environmental\_health@newcastle-staffs.gov.uk**

**Please include the following information, as without it, we are unable to consider your representation.**

- 1) Notice reference «refno» - Representation against Notice of Intent to serve a Fixed Penalty Notice for Emission of smoke from a chimney within a designated smoke control area from «Paddress»
- 2) Your Full name(s)
- 3) Correspondence address (if different from the above)
- 4) Telephone Number(s)
- 5) Email address

Which of the following grounds you are making a representation and the supporting information which you wish to be taken into account.

- A. there was no smoke emitted from the chimney at the time given in the notice of intent.
- B. a smoke control order did not apply to the chimney at the time given in the notice of intent.
- C. the person sent the notice of intent was not responsible for the chimney at the time given in the notice of intent - in which case, they must provide the name and address of the person who was liable at the time (if they know).
- D. there are other compelling reasons why the financial penalty should not be imposed.
- E. (for moored vessels) the smoke emission was from the engine and was used to move it or provide it with electric power.

The onus is on the appellant to provide evidence to support their objection.

Representations will be acknowledged in writing.

You can expect to receive the Council's final decision within 56 days of receipt of your representation.

Yours sincerely

«ioffname», «ioffjob»

**Telephone:** 01782 717717 [quoting APP«refno» / CRM«laref»]

**Email:** «ioffemail»



**ACKNOWLEDGEMENT OF REPRESENTATION MADE**

**Our ref:** APP«refno»  
Environmental Health Services

**Your ref:**

**Date:** «Aadate»

«SERVED»  
«Paddress1»  
«Paddress2»  
«Paddress3»  
«Paddress4»  
«PADDRESS5»

Dear «SERVED»

**Clean Air Act 1993 – Part III and Schedule 1A.**

**ACKNOWLEDGEMENT OF REPRESENTATION AGAINST NOTICE OF INTENT TO ISSUE A FIXED PENALTY NOTICE FOR**

**Emission of smoke from a chimney within a designated smoke control area from «Paddress» witnessed on the on the DATE / TIME**

I acknowledge receipt of your written representation dated xxxxx concerning the above which was received by the Council on the xxxxx

You will receive the Council's decision on this matter within 56 days of the date your representation was received by the Council.

**«ioffname», «ioffjob»**

**Telephone:** 01782 717717 [quoting APP«refno» / CRM«laref»]

**Email:** «ioffemail»

## REPRESENTATION OUTCOME

**Our ref:** APP«refno»  
Environmental Health Services

**Your ref:**

**Date:** «Aadate»

«SERVED»  
«Paddress1»  
«Paddress2»  
«Paddress3»  
«Paddress4»  
«PADDRESS5»

Dear

**Clean Air Act 1993 – Part III and Schedule 1A.**

### **OUTCOME OF REPRESENTATION AGAINST NOTICE OF INTENT TO ISSUE A FINANCIAL PENALTY FOR**

**Emission of smoke from a chimney within a designated smoke control area from «Paddress» witnessed on the on the DATE / TIME**

Further to the representation made by yourself concerning the above matter.

Your grounds for representation have been considered alongside the information you have provided.

On this occasion, the Council will not be issuing a Financial Penalty in respect of the above matter and this matter has now been closed.

OR

Having considered this matter further, the Council will now be issuing a Financial Penalty Notice for the sum of £175 / £300 / other amount specify, in relation to the emission of smoke from a chimney within a designated smoke control area from «Paddress» witnessed on the on the DATE / TIME.

You are advised to take notice of the information FIXED PENALTY NOTICE once received and to arrange prompt payment.

**«ioffname», «ioffjob»**

**Telephone:** 01782 717717 [quoting APP«refno» / CRM«laref»]

**Email:** «ioffemail»

## FINANCIAL PENALTY NOTICE

### CLEAN AIR ACT 1993 - SCHEDULE 1A Penalty for emission of smoke in smoke control area in England

Name «SERVED»  
Of: «nadaddr1»  
«nadaddr2»  
«nadaddr3»  
«nadaddr4»  
«nadaddr5»

#### Particulars of Offence

I, «aoffname» , «offjob», an authorised officer of Newcastle-under-Lyme Borough Council have reason to believe that on ##### , time ##### at «nadaddr1» «nadaddr2» «nadaddr3» «nadaddr4» you committed the offence of **emitting smoke from a chimney within a designated smoke control area** contrary to the provisions of **Clean Air Act 1993 - Schedule 1a**

#### IMPORTANT

**You are required to pay a FINANCIAL PENALTY of £175 / £300 (other amount as determined on appeal) within 28 days of this notice.** (see notes on reverse for details of how to pay).

**If after 28 days this has not been paid in full, this matter will be considered a Civil Debt for which Debt Recovery action will be taken.**

**This may result in additional charges and may also affect your credit history and ability to obtain credit in the future.**

Authorised Officer «Aoffname»

Signature \_\_\_\_\_ Date «svdate»

#### ***Your right of Appeal***

8(1)A person on whom a financial penalty is imposed by a final notice may, within the period of 28 days beginning with the day after that on which the notice was given, appeal against the notice to the First-tier Tribunal General Regulatory Chamber

General Regulatory Chamber  
HM Courts & Tribunals Service  
PO Box 9300  
Leicester  
LE1 8DJ  
Telephone: 0300 123 4504

<https://www.gov.uk/guidance/environmental-fines-or-notices-appeal-against-a-regulator>

- (2)The grounds for an appeal under this paragraph are that the decision to impose the financial penalty was—
- based on an error of fact,
  - wrong in law, or
  - unreasonable.
- (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.
- (4) On an appeal under this paragraph the First-tier Tribunal may—
- quash the final notice,
  - confirm the final notice,
  - vary the final notice by reducing the amount of the financial penalty, or
  - remit to the local authority the decision whether to—
    - withdraw or confirm the final notice, or
    - vary the final notice by reducing the amount of the financial penalty.

**This slip must accompany your payment if paying by post.**  
**FPN Ref: D9«notice number»**

To: Newcastle-under-Lyme Borough Council ( Regulatory Services –Sundry Debtors), Castle House, Barracks Road, Newcastle, Staffordshire. ST5 1BL

I enclose with this letter the amount of £\_\_\_\_\_

Signature\_\_\_\_\_Date\_\_\_\_\_

Name (BLOCK LETTERS)\_\_\_\_\_

Address (BLOCK LETTERS) \_\_\_\_\_

EMAIL\_\_\_\_\_

PHONE NUMBER\_\_\_\_\_

Please make cheques payable to Newcastle-under-Lyme Borough Council.

Alternatively, you can pay by credit or debit card:

Credit card / Debit Card

Card number\_\_\_\_\_

Start Date (if applicable)\_\_\_\_\_

Issue no. (debit card only)\_\_\_\_\_

Signature of cardholder\_\_\_\_\_

Expiry Date\_\_\_\_\_

#### **HOW TO PAY**

##### **BY PERSONAL VISIT TO CUSTOMER SERVICES AT:**

- (a) Castle House, Barracks Road, Newcastle-under-Lyme, ST5 1BL
- (b) Kidsgrove Customer Service Centre, Town Hall, Kidsgrove. ST7 4EL

Monday to Friday - 9.00am to 5.00pm

Payments may be made by cheque, debit or credit card

##### **BY POST:**

Newcastle-under-Lyme Borough Council, Castle House, Barracks Road, Newcastle, Staffordshire. ST5 1BL

Cheques and Postal Orders should be crossed and made payable to: - Newcastle-under-Lyme Borough Council

Please remember to include your payment slip.

##### **BY TELEPHONE:**

Payment may be made by debit or credit card by telephoning 01782 717717.

Please give your **FPN Ref: D9«notice number»**

**THIS DEMAND WILL NOT BE CONSIDERED PAID UNTIL THE FULL REMITTANCE IS ACTUALLY RECEIVED BY THE COUNCIL.**

**NON PAYMENT WILL RESULT IN CIVIL DEBT RECOVERY ACTION BEING TAKEN VIA THE COUNTY COURT**

**POST-DATED OR THIRD PARTY CHEQUES WILL NOT BE ACCEPTED IN SETTLEMENT.**