

Report to Cabinet

20 October 2021

Subject:	Proposal to Declare the Whole of Sandwell as a Smoke Control Area (Revoking and replacing the existing 51 SCAs)
Cabinet Members:	Councillor Suzanne Hartwell Adults Social Care and Health Councillor Ahmad Bostan Environment
Director:	Public Health Lisa McNally
Key Decision:	Yes. The decision effects communities living or working in an area comprising two or more wards or electoral divisions in Sandwell
Contact Officer:	Senior Environmental Health Officer Elizabeth Stephens elizabeth_stephens@sandwell.gov.uk

1 Recommendations

1.1 That Full Council be recommended to give approval to:

- a. Sandwell MBC to announce their 'Intention to Declare' the whole Borough of Sandwell as a Smoke Control Area (SCA) under the Clean Air Act 1993. The new SCA will replace the existing 51 SCAs and ensure that all properties in the Borough are subject to the same legal requirements in relation to smoke control.
- b. to a 6-week period of public consultation on the 'Intention to Declare a Borough-wide Smoke Control Area'



- c. the Director of Public Health, to revoke the existing 51 Smoke Control Orders and make a single Borough-wide Smoke Control Order when an Executive Decision has been made by Cabinet when Cabinet are satisfied that there has been adequate public consultation and suitable and sufficient consideration of any objections as required under the Clean Air Act 1993.

2 Reasons for Recommendations

- 2.1 Sandwell Council has a duty to assess air quality and where necessary take appropriate action to protect the health of those living and working in the Borough.
- 2.2 We know that concerns about poor air quality exist in Sandwell. In 2020 Sandwell Council undertook a public consultation on Climate Change and Air Quality. Of the 654 responses, 70% strongly agreed that improving air quality should be a key priority for Sandwell MBC.
- 2.3 Out of 72 local authorities found to have dangerous background concentrations of fine particulate matter (PM_{2.5}) in 2019, Sandwell and Leicester were the only two local authorities that had these exceedances outside of London and the South East of England.
- 2.4 PM_{2.5} concentrations and other toxic emissions are closely associated with domestic burning. PM_{2.5} has a significant impact on human health it can cause coughs, dizziness, inflamed airways and shortness of breath. It increases the risk of pneumonia, COPD and lung cancer, as well as heart disease and stroke, leading to early death. It can also impact pregnancy and the development of children's lungs.
- 2.5 The use of open fires and solid-fuel burning stoves has risen in popularity over recent years and concerns continue about the current and future impact on urban air quality.




- 2.6 The contribution of wood and solid fuel burning on PM_{2.5} concentrations in urban areas is significant. A government commissioned survey in 2020, demonstrated that 68% of indoor burners lived in urban areas in the UK, as opposed to 32% in rural areas. Due to higher population densities in urban areas, population exposure is greater. Reducing population exposure is key to reducing health impacts.
- 2.7 Smoke Control Areas can help to reduce PM_{2.5} emissions found in chimney smoke by requiring the use of either authorised fuel or by using Defra ‘exempt appliances’ for example certain burners and stoves. Unauthorised fuel must not be used in a smoke control area unless it is used in an exempt appliance. A list of FAQs on Smoke Control Area rules is included in **Appendix A**.
- 2.8 Sandwell currently has 51 separate Smoke Control Areas as shown in **Appendix B**, by extending the SCA to cover the whole of the Borough all neighbourhoods will be protected against harmful smoke emissions. At present many properties in the Borough can still legally burn unauthorised fuels (i.e. wood and coal) in non-exempted appliances. The proposed new single Smoke Control Area will address this inequality.
- 2.9 Although a Borough wide smoke control area will not ban domestic solid fuel burning, it will require residents to take responsibility over the fuels they burn. In addition, any new solid fuel stove installations are much more likely to be ‘exempt appliances’. This is because reputable stove installers currently advise householders in Smoke Control Areas to install Defra ‘exempt appliances’ or ‘Ecodesign’ appliances which already meet stricter smoke emission standards.
- 2.10 Borough-wide Smoke Control Areas are not uncommon in the West Midlands, for example two of our neighbouring authorities, Birmingham and Dudley already have them in place.






- 2.11 The declaration of a Smoke Control Order would not be undertaken until all objections have been considered by pollution control officers and legal team and as required by the Clean Air Act 1993 (Sch. 1. Para.3). Once all objections had been suitably scrutinised and appropriate responses made to the satisfaction of The Director of Public Health and the Cabinet Member for Adults Social Care and Health and Cabinet Member for the Environment a report would be presented to Cabinet summarising the outcomes of the consultation. If appropriate, a request would be made to the Cabinet recommending their approval for The Director of Public Health to declare a Borough Wide Smoke Control Order. In this event, The Smoke Control Order would not come into force for at least 6 months from the date of declaration giving residents and businesses time to prepare.
- 2.12 Legally there is no requirement under the Clean Air Act 1993 to undertake a formal consultation with residents or businesses over the intention to declare a new Smoke Control Area. There is only requirement for a 6-week advertising period in which those impacted by the decision can raise objections. By undertaking a formal consultation in addition to the required period of advertising, we will increase awareness of the proposal, to ensure that all stakeholders have relevant information and are given adequate opportunity to respond. A copy of the draft consultation questions is provided in **Appendix C**.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>Young children face a greater risk to their health from ultrafine particulate emissions (PM_{2.5}) which is strongly associated with domestic burning and is the largest source of ultrafine particulate matter in urban areas. Exposure to PM_{2.5} is shown to have both short and long-term impacts, including respiratory illnesses and impaired lung and cognitive development in children.</p>
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	<p>People live well and age well</p> <p>Air pollution is a key threat to the health of our population and a driver of health inequalities. Addressing air pollution will reduce health inequalities and increase both the perceived and actual position of Sandwell as a cleaner and safer place to live.</p>
	<p>Strong resilient communities</p> <p>Addressing air pollution and in particular PM_{2.5} will contribute towards improving the overall health and resilience of our communities.</p>
	<p>Quality homes in thriving neighbourhoods</p> <p>By providing a SCA that is Borough wide, all neighbourhoods in Sandwell would be afforded the same level of protection from potentially harmful emissions that are created by the burning of solid fuels in domestic properties and businesses.</p>

4 CONTEXT AND KEY ISSUES

History of Smoke Control Areas in Sandwell

- 4.1 The 1956 Clean Air Act (CAA) originated out of the London smogs in the 1950s. A particularly severe London smog in December 1952 that lasted five days, and caused an estimated 12,000 additional deaths, finally led to the creation the 1956 Clean Air Act (CAA). The CAA initially identified the need to control smoke and sulphur dioxide (SO₂) emissions from coal-burning.
- 4.2 The 1993 Clean Air Act was introduced to consolidate two previous CAAs and gave Local Authorities the power to control emissions of dark smoke, grit, dust and fumes from industrial premises and furnaces by declaring 'Smoke Control Areas' where emissions of smoke from domestic premises were banned. When the Metropolitan Borough of Sandwell was formed in April 1974, it inherited 51 separate Smoke Control Areas from the previous county authorities of Warley and West Bromwich and these have remained in place.



Relevance of Declaring the Whole of Sandwell a Smoke Control Area in 2021

- 4.3 In recent decades the main air pollutant of concern in Sandwell was related to road transport and associated nitrogen dioxide (NO₂) concentrations. In 2005 Sandwell was declared an Air Quality Management Area due to exceedances of NO₂ across the Borough. Emissions from NO₂ have significantly decreased due to improvements in vehicle technology and decreased industrial emissions, but instead there is now growing concern about the levels of PM_{2.5} in Sandwell and the associated health impacts.
- 4.4 Estimates of Particulate Matter (PM_{2.5}) at three monitoring sites in Sandwell in 2019 demonstrated levels above the World Health Organisation guidelines of 10µg/m³. With no known safe level for PM_{2.5} the short and long-term impacts on health are significant. There is strong evidence that air pollution causes the development of coronary heart disease, stroke, respiratory disease and lung cancer, and exacerbates asthma.
- 4.5 Although some PM_{2.5} (approximately 12%) comes from transport a substantial proportion (approximately 38%) is from domestic, industry and commercial sources. **(See Appendix D)**
- 4.6 The contribution of PM_{2.5} from small combustion sources such as domestic stoves and fireplaces is growing. This is of concern because when there is a concentration of small combustion emissions from burning activities in an urban area, these emissions have a more significant population impact than burning in sparsely populated rural areas.
- 4.7 In London it has been estimated that the contribution of wood burning to urban-derived PM_{2.5} was between 23 and 31%. Monitoring data also suggests that the PM_{2.5} concentration levels follow a pattern of use i.e. increasing during the evening and weekends and in the colder months, which is consistent with use of stoves and fireplaces.



- 4.8 The Clean Air Act 1993 enables local authorities to declare the whole or parts of the district as a Smoke Control Area (SCA) through a Smoke Control Order. Where an SCA exists, residents will not be able to emit smoke from a chimney and are required to use authorised smokeless fuels or ‘exempt appliances’. A fine of £1,000 can be issued for breaking the rules. The use of an SCA is a key control for Sandwell in minimising potentially harmful emissions from residential and small-scale combustion plants.
- 4.9 A new single Smoke Control Area would ensure that all properties in the borough are subject to the same legal requirements in relation to smoke control under the Clean Air Act 1993.
- 4.10 **Publicity of the Borough Wide Smoke Control Area Proposal**
Although not required in law, Legal Services advised that a ‘non-statutory’ consultation (rather than formal) be undertaken beforehand with residents and businesses to publicise the proposal before any intention to declare was made. Agreement was given in July 2021 by Councillor Suzanne Hartwell, Cabinet Member for Adults Social Care and Health to create three on-line surveys to publicise the proposal. One survey for residents, one for young people and one for businesses. Information on the proposal including a link to the surveys was distributed via various social media platforms, in local newspapers and directly into schools over an 8-week period in July and August 2021. The purpose of this action was to gauge opinion, educate and inform whilst improving the quality of feedback and response/interest should the formal advertising process be agreed by Cabinet. The results of these surveys are presented in **Appendix E**.

Legal Information and Timescales

- 4.11 The Council can make a new Smoke Control Order under the provisions of Section 18 of the Clean Air Act 1993. The timescales for this are as follows:

Step 1: Sandwell MBC publish a Notice stating the proposal to revoke all 51 existing Smoke Control Orders and replace them with a Borough wide one.



Step 2: A six-week advertising period is completed, during which time persons affected may object to the Council over the proposed Order.

Step 3: Once any objections have been appropriately considered the Order is made.

Step 4: The Order must come into effect at least six months after it is made.

Further details of the legislative process and proposed timetable for implementing a Borough-wide Smoke Control Order are provided in **Appendix F**

- 4.12 The new Smoke Control Order would revoke the existing 51 Smoke Control Orders and would ensure that the whole of the Metropolitan Borough is a declared Smoke Control Area, with no planned exemptions.
- 4.13 It is assumed that all properties currently not in existing Smoke Control Areas can comply with the provisions (i.e. capable of being heated without the use of unauthorised solid fuels or non-exempted appliances).
- 4.14 Section 24 of the Clean Air Act 1993 gives local authorities the power to require adaptation of fireplaces in private dwellings to ensure compliance with emissions as required under Section 20. This includes the payment of a grant if necessary to assist with the adaptation. The likelihood of any fireplace adaptation being required is not considered to be a significant one. Those with non-compliant stoves and open fireplaces should not require any adaptation other than to switch to burning authorised fuel and using 'smokeless' firelighters, i.e. gas poker or smokeless BBQ lighters. In very old properties original fireplace grates are sometimes required to be changed for thicker fire-bars which can withstand higher heat intensities from authorised fuels. However, unless the fireplace is the only form of heating for the home the local authority would not be required to assist in paying for this adaptation.



5 ALTERNATIVE OPTIONS

Continue with Existing Smoke Control Areas

- 5.1 To continue with Sandwell's 51 Smoke Control Orders means that differing legal requirements would remain for exempted properties compared to other parts of the borough. This is inequitable and will result in mixed messages and potential greater levels of non-compliance by those in existing smoke control areas who consider themselves unfairly penalised. There is not envisaged to be any legitimate reason for objection.
- 5.2 Non-exempt solid fuel burning stoves and open fire places negatively impact on internal and external air-quality and are a significant threat to health in urban areas. If use in domestic properties in many of the properties in Sandwell continues unchecked and unregulated this could negate the technological gains made through cleaner vehicle technology, home energy efficiency and controls of industrial processes. It is envisaged that the use of solid fuel burning stoves and open fireplaces is likely to increase with the expected economic downturn. Action should be taken now to restrict the use of unauthorised fuels and appliances or they will continue to be detrimental to local air quality.
- 5.3 Air pollution is already impacting negatively on our economy and health - the 'do nothing' option will result in higher costs to the health and quality of life for those who live and work in Sandwell.

6 IMPLICATIONS

Resources:	There would be some associated costs in Declaring a Smoke Control Area, this would include officer time to complete the work required to make a Smoke Control Order and the cost of placing public notices in the London Gazette (approx. £30) and twice in local newspapers (approximately £800 + VAT). Running a survey over the summer and a consultation would have minimal costs as these responses would be completed on-line.
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	<p>The survey and consultation will play an important role in helping to highlight potential for claims for fireplace or stove adaptations in residential properties. It is not expected that there will be many/any legitimate claims, but we will not know this for certain until the 6-week period of advertising has been completed. Any claim would have to be considered on its merit, but such claims are not expected to result in excessive cost. In exceptional circumstances individual exemptions could be allowed but given the risks to health from burning smoky fuels we would look to avoid this where possible.</p> <p>Costs are not expected to be excessive when weighed against the potential benefits to health. Funding for these costs can be found from the existing Public Health budget.</p>
Legal and Governance:	<p>This initiative will contribute to the Action Plan for the Climate Change Strategy and the Annual Status Report on Air Quality in Sandwell.</p> <p>The initiative will be undertaken by Council Air Pollution officers with the support, advice and guidance of Sandwell's legal team.</p>
Risk:	<p>The Corporate Risk Management Strategy (CRMS) will continue to be complied with throughout, in identifying and assessing the significant risks associated with this strategic proposal. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. A project risk register has been compiled and will be reviewed and updated on a regular basis. The risk register is monitored by the Pollution Control Team. Based on the information provided it is the officers' opinion that for the initial risks that have been identified, arrangements are in place to manage and mitigate these effectively.</p> <p>A risk assessment has been undertaken and no "red" risks were reported.</p>



	<p>This report does not relate to the collection of personal information and therefore a privacy impact assessment is not required. Any person who wishes to object the declaration or to make a claim for fireplace/stove adaptation will be required to e-mail or write to the Pollution Control Team at Sandwell Council or pollution_control@sandwell.gov.uk. Data will be handled and stored in accordance with the departments existing GDPR controls.</p>
Equality:	<p>Householders who use solid fuel as their only means of heating may find the switch to authorised fuels slightly more expensive, increasing the risk of putting them into fuel poverty (i.e. spending more than 10% of their income on heating their homes). However, authorised fuels do burn more efficiently. There is also financial assistance and grants available for those on low-incomes to help with home insulation and updating heating provision. Households in this position will be signposted to sources of help through a variety of communication channels, including press, social media and Sandwell Council's website.</p> <p>Conversely the existing patchwork of Smoke Control Areas does not provide equality in protecting residents from harmful pollutants generated by solid fuel burning and open fires, and in particular its contribution to PM_{2.5} which is now linked with both short and long-term health impacts.</p>
Health and Wellbeing:	<p>Air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions and it is associated with a plethora of adverse health impacts. It is recognised as a contributing factor in the onset of heart disease and cancer, plus recent research has suggested links between air quality and stunted lung development in children, exacerbation of degenerative sight loss in adults and dementia in the elderly.</p>



Social Value	Proactive measures now to improve air quality will have long-term positive impact by reducing the burden on the NHS, reducing health inequalities and enabling people to live longer and healthier lives.
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7. APPENDICES

Appendix A - FAQs- Sandwell Council Smoke Control Area

Appendix B - Maps showing existing and proposed Smoke Control Areas in Sandwell

Appendix C – Draft Consultation Questions

Appendix D – Defra infographic on Primary Particulate Matter (PM_{2.5})

Appendix E – Results and summary of on-line SCA surveys for young people, businesses and adults (July/August 2021)

Appendix F - Details of the legislative process and a summary of the steps for implementing a Borough-wide Smoke Control Order in Sandwell

Appendix G – Smoke Control Area Risk Register



SCA - Cabinet
Report Risk Register

Appendix H- Smoke Control Area Equality Impact Assessment



SCA Equality Impact
Assessment V2.docx

8. BACKGROUND PAPERS

The Clean Air Act 1993 – Part III – Smoke Control Areas

<https://www.legislation.gov.uk/ukpga/1993/11/part/III>

Black Country Ultra Low Emission Vehicle Strategy:

https://consultation.wolverhampton.gov.uk/bct/bct-ulev-strategy/user_uploads/black-country-ulev-strategy-2020.pdf



Sandwell - Smoke Control Areas Summary and Map

<https://data.gov.uk/dataset/2e59be11-a9db-4b9e-8cbb-8e2f2567c588/sandwell-mbc-smoke-control-area>

[Primary Particulate Matter - Clean Air Strategy 2019](#)

Airborne particles from wood burning in UK Cities – Environmental Research Group
– King's College London https://uk-air.defra.gov.uk/library/reports?report_id=953

Sandwell Annual Status Report for Air Quality 2020

https://www.sandwell.gov.uk/info/200274/pollution/485/air_quality

Burning in UK Homes and Gardens – Research Report (Dec 2020)

<http://sciencesearch.defra.gov.uk/>



APPENDIX A

Frequently Asked Questions - Smoke Control Areas

Q. What are the rules in a Smoke Control Area?

- A. You cannot emit smoke from a chimney unless you're burning an [authorised fuel](#) or using 'exempt appliances', for example specific burners or stoves. You must not buy an unauthorised fuel for use in a smoke control area, unless it is to be used in an [exempt appliance](#). You can be fined up to £1,000 if you break the rules. You can visit the Government Website [Smoke Control Area Rules](#) for more information.

Q. What are authorised fuels?

- A. Authorised fuels are fuels which are authorised by Statutory Instruments (Regulations) made under the Clean Air Act 1993. These include inherently smokeless fuels such as anthracite, semi-anthracite, gas, low volatile steam coal and specific brands of manufactured solid smokeless fuels. These fuels have passed tests to confirm that they can burn in an open fireplace without producing smoke. A list of fuels which are authorised for use in Smoke Control Areas is available from [Defra - Authorised Fuels](#)

Q. Where can I buy authorised fuel from?

- A. New legislation called the Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 came into effect on 1 May 2021, which means that the sale of wood for domestic combustion in England must have the "Ready to Burn" logo. This is the responsibility of the supplier, although there are a few exceptions. Authorised smokeless fuels are sold by some hardware shops, petrol filling stations and DIY stores and are clearly labelled 'ready to burn'.



Q. What can I burn in an open fire place?

- A. You must not burn any wood on an open fire, although a small amount of kindling or timber wood can be used to light the fire. You can only burn fuel on the list of [authorised fuels](#).

Q. Can I still use a barbecue, chimenea, fireplace or pizza oven with a Smoke Control Area?

- A. Yes. You can use outdoor barbecues, chimeneas, fireplaces or pizza ovens within a Smoke Control Area, however if any of these appliances release smoke through a chimney of a building (i.e. a summerhouse) they can only burn authorised fuel or must be exempt appliances.

Q. Can I still use my non-exempt appliance?

- A. Yes, but only with authorised fuels. The list of [authorised fuels](#) is available on Defra's website, and have the "Ready to Burn" logo shown here.

Q. Are you banning all wood and coal burning stoves?

A. No. You can use your existing stove with the authorised fuel, or if you wish to purchase a new stove, choose an exempt appliance.

Q. Does a Smoke Control Area apply to garden bonfires?

A. No. You are allowed garden bonfires in Smoke Control Areas; however you must follow the Government's [rules on bonfires](#). We do discourage people from having garden bonfires which can cause serious nuisance to neighbouring properties.

Q. What are the health impacts of wood/coal burning stoves and open fireplaces?

A. In the UK, the single biggest source of particulate matter air pollution (PM2.5) is from domestic burning. We spend over 90% of our time indoors, and having a wood burning stove lit has a negative impact on indoor air quality. This makes it a significant risk to public health. Everyone is at risk from indoor air pollution, but you are more vulnerable if you have COPD, asthma or other lung conditions or are elderly or a child. Particulate matter air pollution can cause coughs, dizziness, inflamed airways and shortness of breath. It increases the risk of pneumonia, COPD and lung cancer, as well as heart disease and stroke, leading to early death. It can also impact pregnancy and the development of children's lungs.

Q. I have or want to use a wood burning stove, how do I minimise indoor air pollution from it?

- A.
- Choose an energy efficient stove which is 'Ecodesign Compliant' more information about these types of stoves can be found at www.hetas.co.uk. These are energy efficient appliances that have been independently verified by HETAS, to help lower UK emissions and improve air quality.
 - Use fuel labelled Ready to Burn for both wood and manufactured solid fuels.
 - Ensure that you have it serviced and swept regularly– 40% of chimney fires take place between January and March.
 - Follow manufacturer's instructions for refuelling.

Q. I make/import/distribute appliances that burn unauthorised fuels in the Smoke Control Area. What do I have to do?

A. You must [apply for an exemption](#) if you make, import or distribute appliances that will be used to burn unauthorised fuel in smoke control areas. An "appliance exemption" shows that fuel-burning appliances- for example stoves, ovens, boilers etc- emit smoke below the acceptable limits. You do not need an exemption if the appliances are used with authorised fuels.

Q. Aren't cars and lorries a more important source of particulate matter?

- A. The main sources of PM_{2.5} in urban areas like Sandwell, are from domestic homes burning wood and coal - approximately 38%, while road transport makes up about 12% of PM_{2.5}.

Q. What about smoke from homes in other local authorities in the West Midlands?

- A. Other local neighbouring local authorities also have Smoke Control Areas. All of Birmingham and Dudley are Smoke Control Areas and so is most of Walsall.

Q. Will using authorised fuels cost me more money?

- A. Authorised solid fuels are designed to be more efficient at burning so are cheaper than using coal. However, if you are concerned about the cost of heating your home as you are on a low income there is help and advice available. Under the government's 'Affordable Warmth' scheme you may be able to get financial help for energy-saving home improvements. For example, you live in social housing and your home has an energy efficiency rating of E, F or G, you may also be able to get help with insulation or installing a heating system for the first time. If you're not sure what efficiency rating your home has, check its energy performance certificate. Alternatively, ask your landlord or housing association.

For more information on these schemes, and full eligibility criteria, go to the website [Simple Energy Advice UK](#) or Tel: 0800 444202

It's also worth checking if you qualify for the government's Warm Home Discount, a £140 annual credit paid to your energy account. Find out if you're eligible at the website [Warm Home Discount Scheme](#).

Q. I use or want to use a wood burner/biomass boiler in my business, is that allowed in a Smoke Control Area?

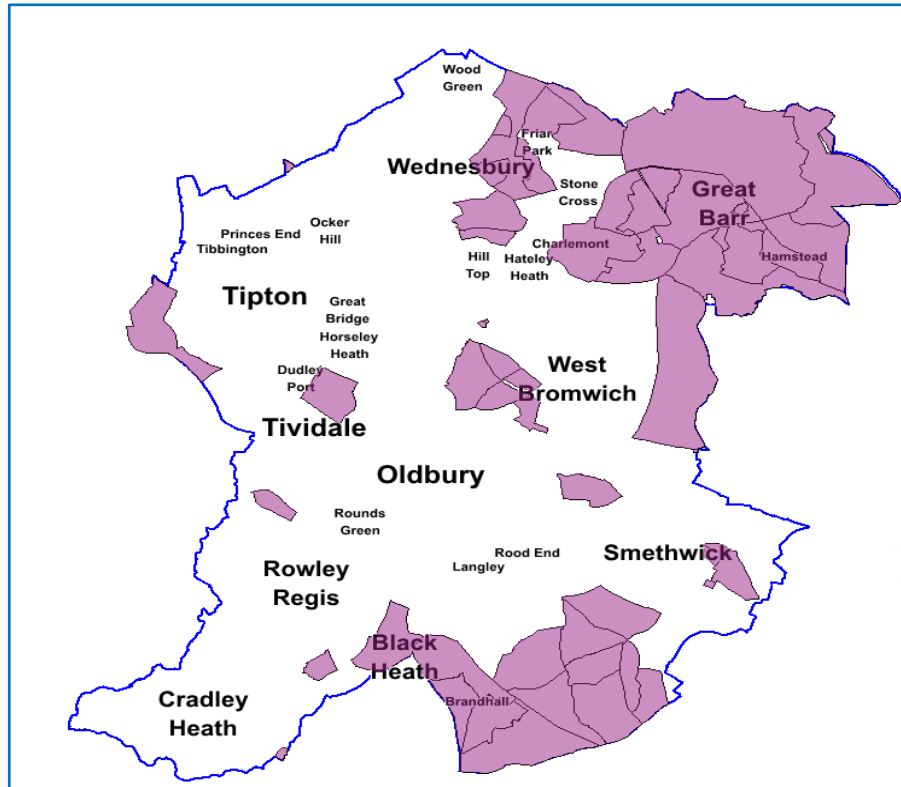
- A. All commercial biomass boilers that burn wood and coal in a Smoke Control Area need to be Defra 'exempt appliances'. A list of exempt appliances is listed on the Website: [Defra Exempt Appliances](#). All commercial biomass boiler manufacturers are required to meet Defra exemption requirements under the Clean Air Act 1993, more information on specific requirements is provided at [environmental protection.org.uk](#) but if you require more advice about your installation or want to check if your boiler is compliant please contact pollution_control@sandwell.gov.uk.

Q. I want to set up a restaurant with a log burning oven, can I do this?

- A. If you wish to install a log burning pizza oven in your food business, then there are some solid fuel pizza ovens included in the list of exempted appliances that you may use. As well as authorised fuels the list of exempted appliances can be found on the government website: <https://smokecontrol.defra.gov.uk/appliances.php>. Please remember that any appliance giving off cooking fumes must be properly ventilated to outside air. This will require adequate ventilation which doesn't cause a nuisance to neighbours and filtered mechanical extract ventilation with an outlet at high level.

APPENDIX B

Existing Smoke Control Areas in Sandwell



Existing Declared Smoke Control Area

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Proposed Borough-wide Smoke Control Area for Sandwell



Proposed Smoke Control Area

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APPENDIX C

Further information can be found about Smoke Control Areas – direct link to Sandwell Council's Air Quality Page on SCAs.

https://www.sandwell.gov.uk/info/200274/pollution/485/air_quality/4 . Those that require more information, have specific enquiries or wish to object to the Smoke Control Order should do so by writing to or e-mailing the Pollution Control Team pollution_control@sandwell.gov.uk.

Draft Consultation Questions

Q.1 What is your postcode?

Q.2 How much do you agree or disagree that air quality should be a key priority for Sandwell?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neither agree or disagree
- ☐ Disagree
- ☐ Strongly Disagree

Q.3 Which of these health impacts can result from emissions from wood and coal burning stoves and open fireplaces?

- ☐ Cancers
- ☐ Stroke
- ☐ Heart disease
- ☐ Asthma
- ☐ COPD
- ☐ Decreased lung development in children
- ☐ Pregnancy complications
- ☐ All of the above

Q.4 In your home, do you use a wood/coal burning stove, an open fireplace or use any other appliance with a chimney?

- ☐ Yes
- ☐ No
- ☐ Not sure

If answer to Q.4 is yes go to Q4a and Q4b if no or not sure continue to Q.5.

Q4a Is your stove from Defra's list of exempt appliances?

- ☐ Yes
- ☐ No
- ☐ Don't know

Q4b Why do you use a solid fuel appliance or open fire place? *Please tick all that apply*

- ☐ It is my only source of heating
- ☐ To save money
- ☐ To supplement other heating
- ☐ It reminds me of my childhood
- ☐ It creates a nice atmosphere

Q.5 If you own/manage a business in Sandwell do you use a biomass boiler/wood/coal burning stove, an open fire place or any other appliance with a chimney?

- ☐ Yes
- ☐ No
- ☐ Not sure

If answer to Q.5 is yes go to Q5a otherwise continue to Q.6.

Q.5a Is your biomass boiler or wood/coal burning stove from Defra's list of exempt appliances?

- ☐ Yes
- ☐ No
- ☐ Don't know

Q.6 Currently only parts of Sandwell are protected by a Smoke Control Order – do you think all of Sandwell should be? (A Smoke Control Area means you would not be allowed to emit smoke from a chimney unless you are using authorised fuel, or a Defra approved appliance).

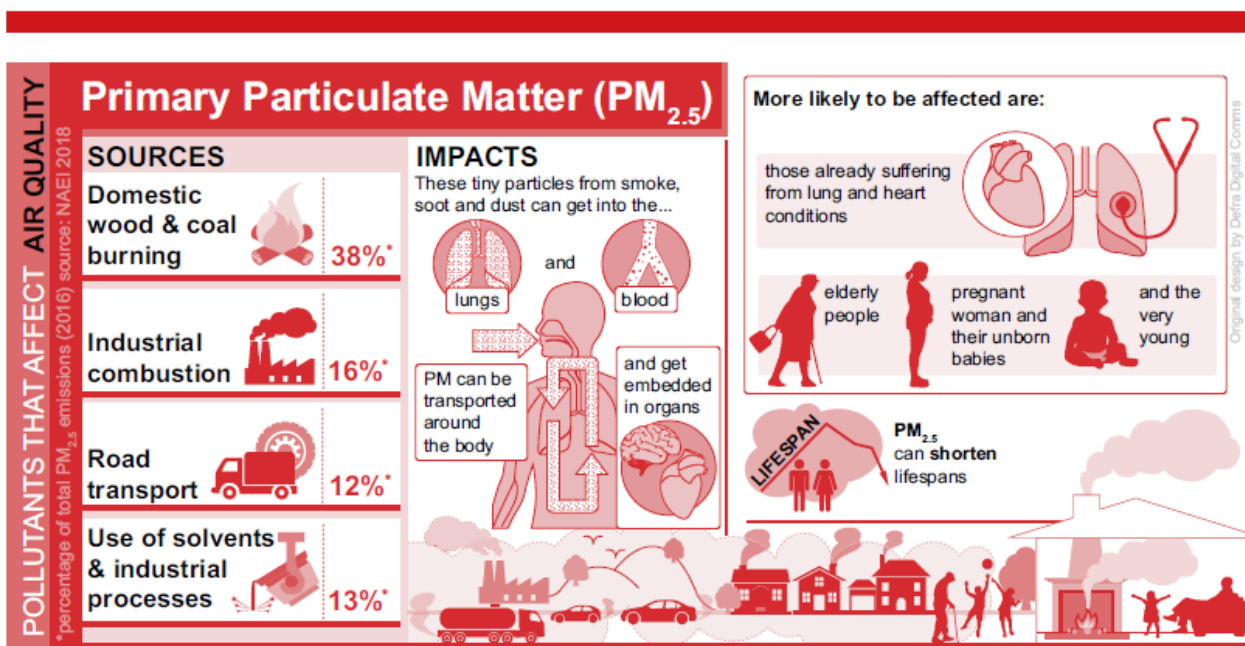
- ☐ Yes
- ☐ No
- ☐ Don't know

Q.7 Do you have any further comments?

APPENDIX D

Sources of Particulate Matter (PM_{2.5}) – Taken from the Government's Clean Air Strategy 2019

CLEAN AIR STRATEGY



APPENDIX E

Smoke Control Area Survey – Results for Residents, Business and Young Persons

Residents Survey Key Results

(181 Respondents)

Q. How much do you agree or disagree that improving air quality should be a key priority for Sandwell?	%
Strongly Agree	63
Agree	19.9
Neither agree nor disagree	9.4
Disagree	4.4
Strongly Disagree	3.3

Q. Currently only parts of Sandwell are protected by a Smoke Control Area order - do you think all of Sandwell should be?	%
Yes	74.6
No	21
Don't Know	4.4

Business SCA Survey Key Results

(12 Respondents)

Q. How much do you agree or disagree that improving air quality should be a key priority for Sandwell?	%
Strongly Agree	75
Agree	16.7
Neither agree nor disagree	-
Disagree	-
Strongly Disagree	8.3

Q. Do you think all of Sandwell should be protected by a Smoke Control Area Order?	%
No	41.7
Yes	58.3
Don't Know	

Young Persons Survey Results

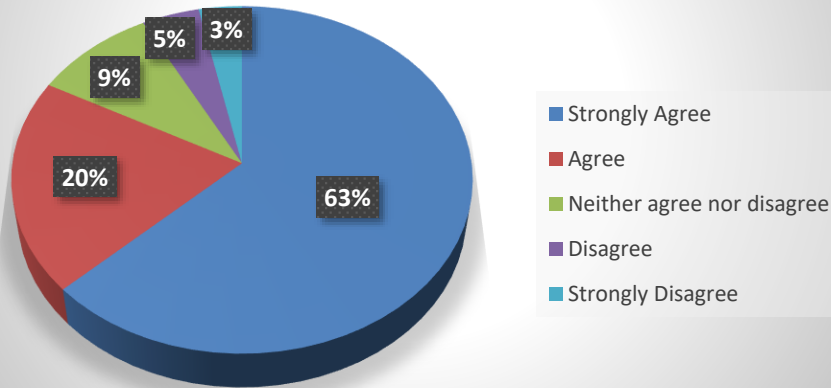
(17 Respondents)

Q. Do you think the air is clean in Sandwell?	%
No	81.3
Yes	12.5
Don't Know	6.3

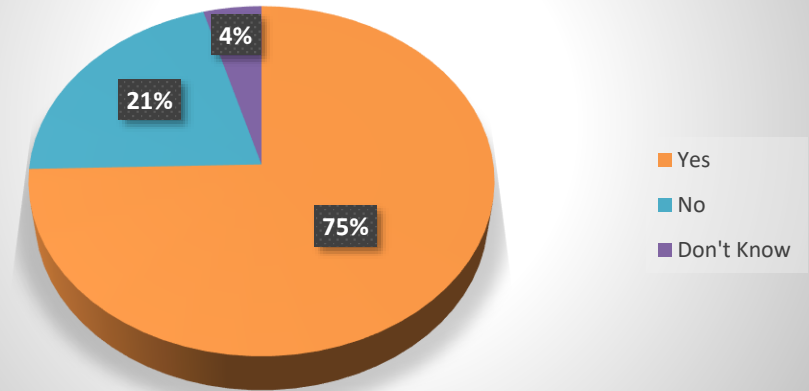
Q. Do you think all of Sandwell should be protected by a Smoke Control Area Order?	%
No	25
Yes	68.8
Don't Know	6.3

Graphical Presentation of Key Smoke Control Area Survey Results from Residents, Business and Young Persons

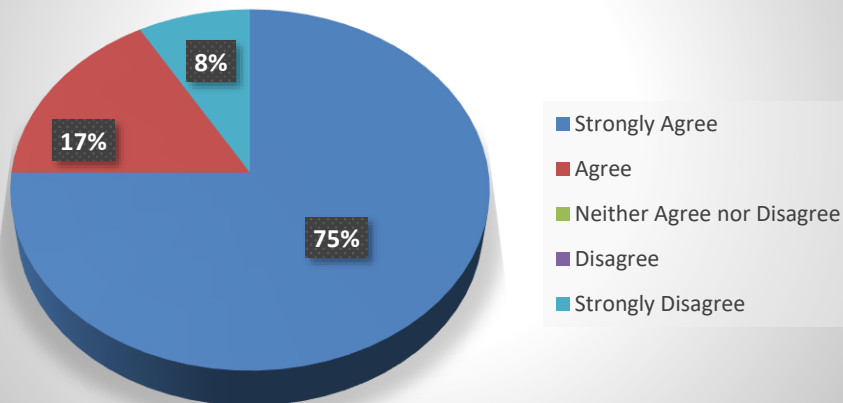
Q. How much do you agree or disagree that improving air quality should be a key priority for Sandwell? (Residents)



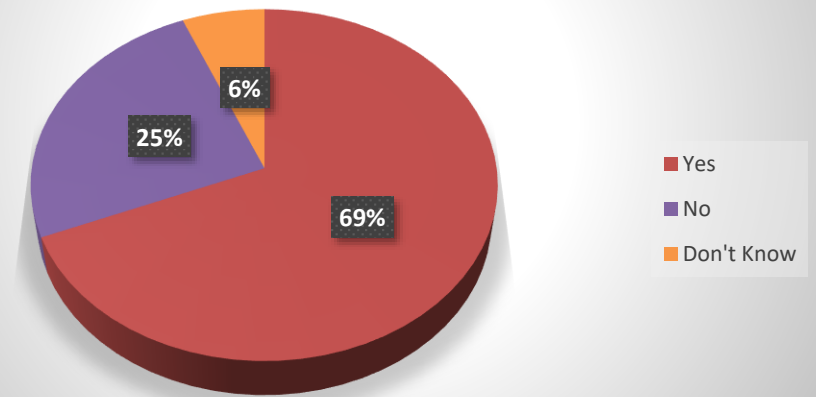
Q. Currently only some parts of Sandwell are protected by a Smoke Control Area order - do you think all of Sandwell should be? (Residents)



Q. How much do you agree or disagree that improving air quality should be a key priority for Sandwell? (Business)



Q. Do you think all of Sandwell should be protected by a Smoke Control Area order? (Young Persons)



APPENDIX F

Details of the Legislative Process and a Summary of Steps for Implementation of a Borough-wide Smoke Control Order in Sandwell

Smoke Control Area – The Legislative Process

The process of declaring a Borough-wide Smoke Control Area would be an Executive Decision through the Leader and Cabinet to be implemented by Portfolio Holder /Officer.

The current Scheme of Delegation from May 2021 authorises the Director of Borough Economy to act and authorise others to act on his/her behalf to perform all functions under the Clean Air Act 1993 (see page 24 out of 201 in the Scheme of Delegation)

Section 18 of the Clean Air Act 1993 allows the authority to declare the whole of the Borough a Smoke Control Area with common requirements/standards Borough-wide (though the right to retain some variations /exceptions is retained).

This would be achieved by revoking all existing Smoke Control Orders and replacing them with the Borough-wide one, in in one process. Section 18 (3) of the Act allows for Smoke Control Orders to be revoked. The process itself is set out in schedules 1 and 5 respectively and is described below.

The Schedules to the Act deal with what is required before making the order and what to do on implementation of the Order and are dealt with in Schedule 1 and Schedule 5 Part III respectively. There is also the issue of due registration of Smoke Control Orders as a Local Land Charge.

1. Before the proposed order is made the council is required to publish in the London Gazette (once) and for two successive weeks in some newspaper circulating in the area to which the order will relate (e.g. Express and Star, Birmingham Evening Mail) a Notice -

Stating that the Local Authority propose to make the order(s) and its general effect (dealing with both revocation and implementation)

Specifying a place in the District where a copy of the order and any map or plan referred to in it may be inspected by any person free of charge at all reasonable times during a period of not less than 6 weeks from the last publication of the notice and stating that within that period any person who will be affected by order may by notice in writing to the local authority object to the making of the Order.

2. Besides publishing such a Notice, the local authority shall post and keep posted throughout the period mentioned in paragraph 1 copies of the Notice in such number of conspicuous places within the area to which the order will relate to them necessarily for the purpose of bringing the proposal to make the order to the notice of persons who will be affected.
3. If objection is duly made to the Local Authority within the period mentioned in paragraph 1 and is not withdrawn the local authority shall not make the order without first considering the objection.
4. Subject to paragraphs 5 and 6 an Order shall come into operation on such date not less than six months after it is made, as may be specified in it
5. An Order varying a previous Order so as to exempt specified buildings or classes of Buildings or Fireplaces from the Operation of Section 20 (Prohibition of smoke emissions in Smoke Control Areas) may come into operation on, or any time after the date upon which it was made.
6. This allows for Postponements of the Order coming into operation if one is required

SCHEDULE 5 PART III

This deals with the confirmation and coming into operation of Control Orders

12. After an Order is made the council shall publish in the London Gazette and in some newspaper circulating in the area to which the Order relates to a notice stating that the order has been made and its general effect.

Specifying a place in the District of the Local Authority where a copy of the Order and any map referred to may be inspected by any person free of charge at all reasonable times during a period of not less than 6 weeks from the date of the last publication of the Notice **and**

Stating within that period any person who will be affected by the Order may by notice in writing to the Secretary of State object to the confirmation of the Order

13. Besides publishing a notice as required by paragraph 12 the Local Authority who have made the Order shall post and keep posted throughout the period mentioned in that paragraph, copies of the Notice in such number of conspicuous places within the area to which the Order relates as to appear to them necessary for the purpose of bringing the Order to the notice of persons affected.

14. If no objection is duly made to the Secretary of State within the period mentioned in Paragraph 12 (b) or if every objection so made is withdrawn, the Secretary of State if he thinks fit confirm the Order either way with or without modifications.
15. In any other case the Secretary of State shall before confirming the order either-
 - (a) Cause a local enquiry to be held or
 - (b) Afford any person by whom an objection has been duly made in accordance with paragraph 12 (c) and not withdrawn an opportunity of appearing before and being heard by him for the purpose and after considering the objection and the report of the inquiry or the person so appointed, confirm the order with or without modifications.
16. If such an inquiry is held Section 250 of the Local Government Act 1972 applies-i.e. the usual powers to summons documents/witnesses before the inquiry.

Paragraphs 17-19 below deal with the confirmation of the Order, Postponements or Modifications

17. Subject to paragraphs 18 and 19, an order when confirmed shall come into operation on such date as may be specified in the order, not being earlier than six months from the date of the confirmation.
18. An order varying a previous order so as to exempt specified buildings or classes of building or specified fireplaces or classes of fireplace from the operation of section 18 may come into operation on, or at any time after, the date of its confirmation.
19. (1) If, before the date on which an order is to come into operation, the local authority—
 - (a) pass a resolution postponing its operation; and
 - (b) publish a notice stating the effect of the resolution in the London Gazette and also once at least in each of two successive weeks in some newspaper circulating in the area to which the order relates;

the order shall, unless its coming into operation is again postponed under this paragraph, come into operation on the date specified in the resolution.

- (2) A local authority shall not without the consent of the Secretary of State exercise their power under sub-paragraph (1) of postponing the coming into operation of an order for a period of more than twelve months or for periods amounting in all to more than twelve months.

Proposed Timetable for Implementation of a Borough-wide Smoke Control Order in Sandwell

Step	Action	Legal Requirement? (Yes or No)	Date
1.	Cllr Suzanne Hartwell and Director of Public Health, Lisa McNally agree that initial surveys with Young Persons, Residents and Businesses can be undertaken. This is not a 'public consultation' but an exercise in maximising understanding of the benefits behind the proposed change and raising general awareness.	No	29/06/2021
2.	Surveys launched with information on the SCA proposal via social media platforms, press releases, and through local schools.	No	13/07/2021
3.	Councillor workshop arranged for 31 August 2021 to discuss the proposal, listen to feedback and investigate/consider any concerns.	No	31/08/2021
4.	Surveys close 1 September 2021– results to be analysed and summarised for Cabinet Committee on 20 October 2021	No	31/08/2021
5.	Proposal for 'Intention to Declare a Smoke Control Area' to be shared with the Adult Health and Scrutiny Committee on 13 September 2021.	No	13/09/2021
6.	Report submitted to Cabinet Committee on 20 th October 2021. To include feedback from the surveys and Councillor Workshop. If appropriate request will be made for approval to issue a Notice declaring the intention to revoke the existing 51 SCAs and declare a Borough-wide Smoke Control Area.	No	20/10/2021

Step	Action	Legal Requirement? (Yes or No)	Date
7.	Notice of Intention to Declare a Smoke Control Area If Cabinet Committee agree – delegate responsibility to the Director of Public Health to issue a Notice stating Sandwell Council’s Declaration of Intention to Declare a Borough-wide SCA.	Yes	November 2021
7.	Local Authority Publicise Intention A minimum 6 weeks advertising period must be completed of the Council’s Notice of Intention to Declare a Borough-wide SCA. This must include: <ul style="list-style-type: none"> • Publication of the Notice in the London Gazette (once) • Publication over two successive weeks in a newspaper that circulates in the local area e.g. Express and Star, Birmingham Evening Mail. • Post Notices in conspicuous places • Ensuring copies of the Order are available to the public for at least 6 weeks from last newspaper notice. 	Yes	November and December 2021
8.	In conjunction with the legally required 6 Weeks Advertising Period the local authority will carry out a 6-week Public Consultation. This consultation to be advertised through Sandwell Council’s communication streams including, social media platforms and local newspapers.	No	November and December 2021
9.	Return to Cabinet for Approval A cabinet report will be submitted following the six weeks consultation and advertising period. This will summarise the results of both as well as highlight any written legitimate objections to the SCA Notice. (There is the option to vary an Order by exempting specific properties/business on a case by case basis). If, considered appropriate a request will be made to Cabinet for them to agree that the Director of Public Health can make a	No	9 February 2022

Step	Action	Legal Requirement? (Yes or No)	Date
	Smoke Control Order, this would revoke the existing 51 SCAs and declare a Borough-wide Smoke Control Area.		
10.	<p>Making of a Borough-wide Smoke Control Order</p> <p>The Director of Public Health makes the Smoke Control Order. The order shall come into operation on such a date not less than six months after it is made. The date may be specified in the Order. A notice is published in the London Gazette and in local newspaper/s informing that the Order has been made and its general effect. It must specify where a copy of the Order and any map referred to can be inspected for a period of at least 6 weeks from date of publication. Copies must also be made available in conspicuous places across the Borough so that it is brought to the attention of those living and working in Sandwell.</p> <p>Any objections to the Order must be made to the Secretary of State.</p>	Yes	March 2022
11.	<p>Confirmation of Order</p> <p>If no objection is made to the Secretary of State within the 6-week period since advertising the Order or if every objection so made is withdrawn, the Secretary of State if he thinks fit, may confirm the Order either way with or without modifications.</p> <p>Or before confirming the Order the Secretary of State can require a local enquiry to be held or afford the objector the opportunity to appear before him and be heard by him. Consideration will then be given by the Secretary of State to either the enquiry report, or the objection raised in person and he will then confirm the Order with or without modifications.</p>	Yes	September 2022